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CHARTER
OF THE
CITY OF MANISTEE

REVISED 1903

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CHARTER

OF THE

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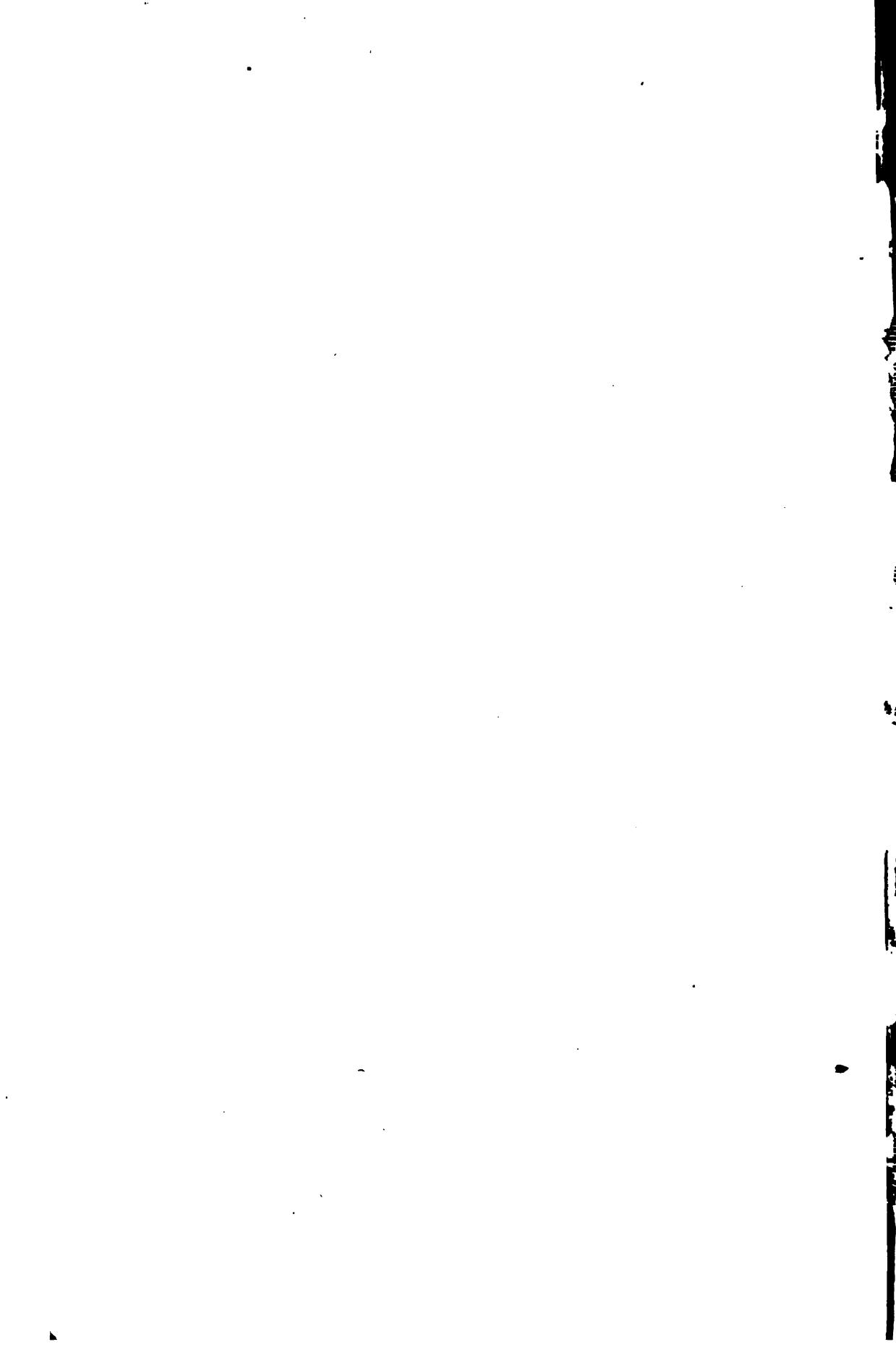
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APPROVED MARCH 15, 1882.

AND AMENDMENTS THERETO UP TO AND INCLUDING
1903.

PUBLISHED BY AUTHORITY
OF THE COUNCIL

1904.



CHARTER
OF THE
CITY OF MANISTEE.

CHAPTER I.

CITY AND WARD LIMITS.

The People of the State of Michigan enact:

SECTION 1. That so much of the county of Manistee as is included in the following descriptions, to wit: That portion of section one west of Manistee lake; entire sections two, ten, eleven and twelve; lots two and three of section thirteen, all in town twenty-one north, of range seventeen west; also lot seven of section eighteen, town twenty-one north, of range sixteen west; also all that portion of Manistee lake lying eastward of and adjoining said lands, and within fifty rods of the west shore of said lake, shall be and the same is hereby set off from the townships of Filer and Manistee, and organized and incorporated into a city by the name of the city of Manistee.

Territory incorporated.

Sec. 2. The said city shall be divided into seven wards. The first ward shall include all that portion of said city described as follows: Lots two, three, four and five of section one, lots one and two, and the northeast one-fourth of the southeast one-fourth of section two, and lot five of section twelve; the second ward shall include all that portion of said city lying south of the Manistee river and west of the section line running between sections eleven and twelve; the third ward shall include all that portion of said city described as follows: Lot six of section one and lot one of section twelve; the fourth ward shall include all that portion of said city described as follows: Lot four of section twelve, lots two and three of section thirteen and lot seven of section eighteen; the fifth ward shall include all that portion of said city described as follows: Lots three and four and the south half of southeast one-fourth of section two, and lots one and two of section eleven; the sixth ward shall include all that portion of said city described as follows: Lot two and the southwest one-

Ward limits.

CHAPTERS I—II.

fourth of northwest one-fourth of section twelve; the seventh ward shall include all that portion of said city described as follows: Lot three and the southwest one-fourth of section twelve.

No election until next annual election.

SEC. 3. No election of (aldermen) alderman or ward officers shall be held in any new ward hereby established or any ward on account of the changes in the boundaries thereof made hereby previous to the next annual city election, nor shall the office of any alderman or other officer elected in any ward be vacated by reason of any change made hereby in such ward, but any alderman or other officer shall, during the remainder of his term continue in office and shall represent the ward including the place of his residence, unless the office become vacant from some other cause.

Term of office to be designated on ballot.

SEC. 4. In any ward where it shall be necessary to elect two aldermen at the same time, one of them shall be elected for one year and one for two years, and the term of each shall be designated on the ballots.

CHAPTER II.

EFFECT OF INCORPORATION.

Name, etc.

SECTION 1. The city shall be a body politic and corporate under and by the name of the city of Manistee; and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which it is incorporated, have a common seal and change the same at pleasure, and exercise all the powers in this act conferred.

Courts to take judicial notice of proceedings under this act.

SEC. 2. Judicial notice shall be taken in all courts and proceedings in this State of the existence of the city of Manistee as incorporated under this act, and of all changes at any time made in the corporate limits of the said city by the annexation of territory thereto or otherwise, and of the boundaries of all wards, and of all changes made at any time in the boundaries of any ward in the city.

By-laws, etc., to remain in force.

SEC. 3. All ordinances, by-laws, and resolutions in force in the city when this act shall take effect, and not inconsistent herewith, shall continue in full force and effect until repealed or amended by the council established under this act.

Rights and property vested in new corporation.

SEC. 4. All rights and property of any kind and description which were vested in the city under its former organization shall be deemed and held to be vested in the corporation under this act; and no rights or liabilities, either in favor of or against such corporation under its former organization, existing at the time of the passage of this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the corporation under this act, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made:

CHAPTERS II—III.

Provided, That when a different remedy is given in this act, **Proviso**, which can be made applicable to any rights existing at the time of the incorporation of the city under or subject to this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

CHAPTER III.

ANNEXATION OF TERRITORY.

SECTION 1. The inhabitants residing upon any territory adjacent to the city incorporated under this act, may, at their own request, be annexed to said city in manner following:

SEC. 2. Application for such purpose shall be by petition to the board of supervisors of the county of Manistee, and shall be signed by a majority of the freehold electors residing upon said territory. It shall contain the name or names of some person or persons who are authorized to act as agent or agents of the petitioners in securing the annexation, and shall fully describe the said territory and be accompanied by an accurate map thereof, and with a list or census of the freehold electors residing upon such territory, made within sixty days next preceding the filing of said petition and verified by the affidavit of the person making such list. Notice of the time and place where the application will be made and of the object of the petition shall be given by publication of such notice in one of the newspapers of the city, and by posting copies thereof in five of the most public places upon said territory at least one month before presenting said petition to the board. Proof of the publication and posting afore-
said shall be made by affidavit to be filed with the petition.

SEC. 3. Said petition with the map, census list and proofs mentioned in the preceding section may be presented to the board of supervisors at the time designated in said notice, and if no sufficient objection be made to appear thereto the board may, by resolution reciting the filing and object of the petition and the description of said territory, consent to the annexation. Upon the passage of such resolution the clerk of the board shall make and certify a transcript thereof and a copy of said map to the city council.

SEC. 4. Upon receiving said transcript from the clerk of the board the city council may, by ordinance referring to the transcript and describing said territory, consent to the application and declare the territory annexed to the city, but a rejection of the application shall not bar new proceedings for the same purpose.

SEC. 5. If the application for annexation be accepted by the council the city clerk shall make two copies of said transcript and of the ordinance of annexation, and certify the same under his hand and the seal of the city to be correct, one of which certified copies shall be filed and recorded in the office of the Secretary of State and the other in the office of the county clerk of the county of Manistee.

Annexation of
adjacent territory.

Petition for
to board of
supervisors.

Publication
and posting of
notice.

Proof of publi-
cation.

Action of
board of su-
pervisors on
petition.

Council may
declare the
territory
annexed.

Where copy of
ordinance to
be filed.

CHAPTERS III—IV.

Acquisition of territory by council. SEC. 6. Whenever the city shall desire to enlarge its corporate limits by the annexation of adjacent territory the council may, by resolution describing the territory sought to be acquired, authorize its annexation, and shall in the same resolution designate the time when an application will be made to the board of supervisors of the county of Manistee for that purpose.

Publication and posting of notice of application. SEC. 7. Notice of the intended application shall be given by publication of a copy of said resolution in one of the newspapers of the city, and by posting copies thereof in five of the most public places in the said territory at least one month before the time appointed for making the application. Proof of the publication and posting of said resolution as aforesaid shall be made by affidavit.

Action of board of supervisors on application. SEC. 8. Upon presenting a certified copy of said resolution and a map of the territory sought to be annexed, with proof of the publication and posting aforesaid to the board of supervisors at the time designated in said resolution, the board, if no sufficient objection is made thereto, may by resolution reciting the resolution of the council and describing such territory, consent and authorize the annexation thereof; and thereupon the clerk of the board shall certify a transcript of said resolution of consent with said map to the city council, whereupon the city council may by ordinance referring to said transcript and describing the territory declare the same annexed to the city, and the city clerk shall then make and certify like copies of the ordinance and transcript as provided in section five of this chapter, and file the same for record in the offices of the Secretary of State and of the county clerk of the county of Manistee.

Clerk of board to certify to council. SEC. 9. Whenever certified copies of the ordinance of annexation and transcript of the resolution of the board of supervisors shall have been filed in the office of the Secretary of State, as provided in sections five and eight, the territory therein described and sought to be annexed shall be deemed and taken to be a part and parcel of the city, and the inhabitants residing thereon shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city. Certified copies of said ordinances and transcripts so filed in the office of the Secretary of State or county clerk or of the record thereof shall be *prima facie* evidence of the matters therein stated, and of the legal annexation of the territory therein described.

Ordinance of annexation.

Where filed for record.

When filed, territory deemed part of city.

Certified copies evidence.

CHAPTER IV.

ELECTORS AND REGISTRATION.

Who to be electors. SECTION 1. The inhabitants of the city incorporated under this act, having the qualifications of electors under the constitution of this State, and no others, shall be electors therein.

Where entitled to vote. SEC 2. Every elector shall vote in the ward where he shall have resided during ten days next preceding the day of election. The residence of any elector, not being a householder,

CHAPTER IV.

shall be deemed to be in the ward in which he boards or takes his regular meals.

REGISTRATION.

SEC. 3. The aldermen of each ward shall constitute the board of registration therein, except as in this act otherwise provided. If by reason of a change of the boundary of any ward, or the formation of a new ward, or other cause, there shall not be any or a sufficient number of aldermen representing such ward to constitute a board of registration of two persons, the council shall supply the vacancy or appoint a board of registration for the ward.

Board of registration.

SEC. 4. When changes shall be made in any ward or wards, or a new ward shall be formed in whole or in part from the territory of other wards, the boards of registration of the respective wards affected by the change shall meet previous to the time prescribed by law for giving notices of their sessions preceding the next election, and the name of each registered elector known to have been transferred by such change from one ward to another ward, or to the new ward, shall be copied into the register of the ward to which the transfer was made, and be stricken from the register of the ward from which the elector was transferred by the change.

Registration in case of change of ward boundaries.

SEC. 5. When a new ward shall be formed, the board of registration thereof, at its session next preceding the next election therein, shall make or complete a new register of the electors residing therein, and for that purpose shall remain in session three days; and notice of the formation of such ward, and that a new register of the electors will be made at that session, shall be given with the notice required by law to be given of such session of the board.

Registration in new wards.

SEC. 6. The boards of registration in the city as incorporated under this act, at their sessions previous to the general election in November in the year one thousand eight hundred and eighty-four, shall make a re-registration of the qualified electors of their respective wards, in books of the form provided by law. The same rules shall be observed in such registration as are provided by law for the registration of electors in cities; and a like registration of the electors of each ward shall be made at the session of the board next preceding the general election, in the year eighteen hundred and eighty-eight, and every fourth year thereafter. When such new registry shall be made the former registry of electors shall not be used, nor shall any person vote at any election in such ward after such re-registration unless his name shall be registered in such new register. Notice that such re-registration is required to be made shall be given with the notice of the meeting or session of the board at which it is to be made.

When registration to be made.

New registration to supersede old one.

Notice.

CHAPTER V.

CHAPTER V.

OFFICERS.

City officers. SECTION 1. In the city as incorporated under this act there shall be the following city officers: A mayor, city clerk, city treasurer, and four justices of the peace, who shall be elected by the qualified voters of the whole city.

Ward officers. SEC. 2. In each ward a supervisor, two aldermen, and a constable shall be elected.

Appointed officers. SEC. 3. The council shall, on the nomination of the mayor, elect and appoint, by a majority vote of all the aldermen elected, a city attorney, a street commissioner, a city surveyor, a pound master, a harbor master, one assessor, one police and fire commissioner, one water commissioner, and such other officers as the council may from time to time deem necessary, to carry into effect the powers granted by this act. The mayor shall submit to the council his nominations to the above named offices at the meeting of the council on the third Tuesday in April in each year.

Mayor to submit nominations third Tuesday in April. SEC. 4. Appointments to office by the council, except appointments to fill vacancies, shall be made on the third Tuesday of April in each year, but appointments which for any cause shall not be made on that day may be made at any regular meeting of the council.

Time of making appointments. SEC. 5. The mayor, city clerk, city treasurer, supervisors, and constables, shall hold their offices for the term of one year from the first Monday in April of the year when elected and until their successors are qualified and enter upon the duties of their offices. One justice of the peace shall be elected annually for the term of four years from the fourth day of July next after his election.

Term of office. SEC. 6. All other officers appointed by the mayor or council except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the third Tuesday in April next after such appointment, and until their successors are legally qualified and enter upon the duties of their office, unless a different term of office shall be provided in this act or in the ordinance creating the office.

When officers shall enter upon their duties. SEC. 7. Justices of the peace elected for the full term of four years shall enter upon the duties of their office, on the fourth day of July next after the election. In all other cases officers shall enter upon the duties of their offices immediately upon taking the oath of office and giving the security (if any), required for the performance of the duties of the office. Vacancies in the offices of justices of the peace may be filled at any annual election in the city, and the justices of the peace so elected shall serve during the remainder of the unexpired term.

QUALIFICATION, OATH, AND BOND OF OFFICE.

Qualification for office. SEC. 8. No person shall be elected or appointed to any office unless he be an elector of the city, and if elected or appointed for a ward, he must be an elector thereof; and no

CHAPTER V.

person shall be elected or appointed to any office in the city who has been or is a defaulter to the city or to any board of officers thereof, or to any school district, county, or other municipal corporation of the State. All votes for, or any appointment of, any such defaulter shall be void.

SEC. 9. Justices of the peace elected in any city shall take ^{Oath of office.} and file an oath of office with the county clerk of the county in which the city is located within the same time and in the same manner as in cases of justices of the peace elected in townships. All other officers, elected or appointed in the city, shall, within ten days after receiving notice of their election or appointment, take and subscribe the oath of office prescribed by the constitution of the State, and file the same with the city clerk.

SEC. 10. Every justice of the peace, within the time limited for filing his official oath, shall file with the county clerk mentioned in the preceding section, the security for the performance of the duties of his office, required by law in the case of justices of the peace elected in townships; except that said official bond or security may be executed in presence of, and be approved by, the mayor; and in case he shall enter upon the execution of his office before having filed his official oath and bond of security, and such other bond or security to the city as may be required by law, or by any ordinance or resolution of the council, he shall be liable to the same penalties as are provided in cases of justices of the peace elected in townships, and every other officer elected or appointed in the city, before entering upon the duties of his office, and within the time prescribed for filing his official oath, shall file with the city clerk such bond or security as may be required by law or by any ordinance or requirement of the council, and with such sureties as shall be approved by the council, for the due performance of the duties of his office, except that the bond or security of the clerk shall be deposited with the city treasurer. ^{Bond of Justice.} ^{Other bonds.}

SEC. 11. The council or the mayor, or other officer whose duty it shall be to judge of the sufficiency of the proposed sureties of any officer or person of whom a bond or any security may be required by this act or by any ordinance or direction of the council, shall inquire into the sufficiency of such sureties, and examine them under oath as to their property; such oath may be administered by the mayor, or any alderman or other person authorized to administer oaths. The examination of any such surety shall be reduced to writing, and be signed by him, and annexed to and filed with the bond or instrument to which it relates. ^{Sufficiency of sureties, how decided.}

SEC. 12. The council may also at any time require any ^{New bonds.} officer, whether elected or appointed, to execute and file with the clerk of the city new official bonds in the same or in such further sums and with new or such further sureties as said council may deem requisite for the interest of the corporation. And failure to comply with such requirement shall subject the officer to immediate removal by the council.

CHAPTERS V—VI.

VACANCIES IN OFFICE.

Resignations.

SEC. 13. Resignations of officers shall be made to the council subject to their approval and acceptance.

Removals from city or ward to vacate office.

SEC. 14. If any officer shall cease to be a resident of the city, or if elected in and for a ward shall remove therefrom during his term of office the office shall thereby be vacated. If any officer shall be a defaulter the office shall thereby be vacated.

On failure to file oath or bond, council may declare office vacant.

SEC. 15. If any person elected or appointed to office shall fail to take and file the oath of office or shall fail to give the bond or security required for the due performance of the duties of his office within the time herein limited therefor, the council may declare the office vacant unless previous thereto he shall file the oath and give the requisite bond or security.

Filling vacancies.

SEC. 16. A vacancy in the office of mayor or of any alderman occurring more than ninety days before an annual city election shall be filled by a special election. A vacancy in the office of any alderman occurring within ninety days before an annual election, and all vacancies in the office of justice of the peace shall be filled at the next annual election. Vacancies in any other office shall be filled by appointment by the council within twenty days after the vacancy occurs, or if the vacancy be in an elective office it may be filled by an election or an appointment in the discretion of the council.

Liabilities of officers and sureties.

SEC. 17. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office exonerate such officer or his sureties from any liability incurred by him or them.

Delivery of books, moneys, etc., to successors.

SEC. 18. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor in office all the books, papers, moneys, and effects in his custody as such officer and in any way appertaining to his office; and every person violating this provision shall be deemed guilty of a misdemeanor and may be proceeded against in the same manner as public officers generally for the like offense under the general laws of this State now or hereafter in force and applicable thereto; and every officer appointed or elected under this act shall be deemed an officer within the meaning and provision of such general laws of the State.

CHAPTER VI.

ELECTIONS.

Annual election.

SECTION 1. An annual city election shall be held on the first Monday in April in each year, at such place in each of the several wards of the city as the council shall designate.

Special elections.

SEC. 2. Special elections may be appointed by resolution of the council, and held in and for the city, or in and for any ward thereof, at such times and place or places as the council shall designate; the purpose and object of which shall be fully set forth in the resolution appointing such election.

CHAPTER VI.

SEC. 3. Whenever a special election is to be held, the council shall cause to be delivered to the inspectors of election in the ward or wards where the same is to be held, a notice signed by the city clerk, specifying the officer or officers to be chosen, and the question or proposition, if any, to be submitted to the vote of the electors, and the day and place at which such election is to be held, and the proceedings and manner of holding the election shall be the same as at the annual elections.

SEC. 4. Notice of the time and place or places of holding any election, and of the officers to be elected, and the questions to be voted upon, shall, except as herein otherwise provided, be given by the city clerk, at least eight days before such election, by posting such notices in three public places in each ward in which the election is to be held, and by publishing a copy thereof in a newspaper published in the city the same length of time before the election; and in case of a special election the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election.

SEC. 5. The council shall provide and cause to be kept by the city clerk, for use at all elections, suitable ballot boxes of the kind required by law to be kept and used in townships.

SEC. 6. On the day of elections held by virtue of this act the polls shall be opened in each ward, at the several places designated by the council, at eight o'clock in the morning, and shall be kept open until five in the afternoon, at which hour they shall be finally closed. The inspectors shall cause proclamation to be made of the opening and closing of the polls.

SEC. 7. The supervisor and two aldermen of each ward shall, except as in this act otherwise provided, constitute the board of inspectors of election. If, by reason of the formation of new wards, or by a change in the boundaries of existing wards, or for any reason there shall not be a sufficient number of the officers last named in any ward to make a board of three inspectors, it shall be the duty of the council, at least one week before the election, to appoint a sufficient number of inspectors, who, with the officers above named, if any, residing in the ward, shall constitute a board of three inspectors for the ward, and if at any election any of the inspectors above provided for shall not be present, or remain in attendance, the electors present may choose "viva voce," such number of such electors, as with the inspector or inspectors present, shall constitute a board of three in number, and such electors so chosen shall be inspectors at that election.

SEC. 8. The inspectors shall choose one of their number chairman of the board, and the others shall be clerks of election, or, when necessary, the board may appoint two other persons to be clerks of election, and the persons so appointed, and each person chosen or appointed as inspector of election shall take the constitutional oath of office, which oath either of the inspectors may administer.

SEC. 9. The inspectors of election, as specified in the last

Duties of
inspectors.

Notice of
special elec-
tions.

Time and man-
ner of giving
notice.

Ballot boxes.

Opening and
closing polls.

Inspectors of
election.

Chairman and
clerks of
board.

CHAPTER VI.

two sections, shall be inspectors of State, county, and district elections in their respective wards.

Manner of conducting elections.

SEC. 10. All elections held under the provisions of this act shall be conducted, as nearly as may be, in the manner provided by law for holding general elections in the State, except as herein otherwise provided; and the inspectors of such elections shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this State.

Ballots.

SEC. 11. The electors shall vote by ballot; and the same ballot shall contain the names of persons designated as officers for the city, and as officers for the ward. The ballots cast upon any question or proposition submitted to be voted upon, shall be separate, and be deposited in a separate box.

Ballots for vacancies.

SEC. 12. If at any election vacancies are to be supplied in any office, or if any person is to be elected for less than a full term of the office, the term for which any person is voted to fill, the same shall be designated on the ballot.

Polling of ballots.

SEC. 13. It shall be the duty of the inspectors on receiving the vote as specified in the last two sections, to cause the same, without being opened or inspected, to be deposited in the proper box provided for that purpose. The board shall also write or cause to be written, the name of each elector voting at such elections, in two poll lists to be kept by said inspectors of election or under their direction. And such lists shall be so kept as to show the number and names of the electors voting upon any question or proposition submitted to the vote of the electors.

Canvass by inspectors.

SEC. 14. Immediately after closing the polls the inspectors of election shall, without adjourning, publicly canvass the votes received by them and declare the result, and shall on the same day or on the next day make a statement in writing setting forth in words at full length the whole number of votes given for each office, the names of persons for whom such votes for each office were given, and the number of votes so given for each person, and the whole number of votes given upon each question voted upon, and the number of the votes given for and against the same, which statement shall be certified under the hands of the inspectors to be correct, and they shall deposit such statement and certificate on the day of election or on the next day, together with said poll lists and the register of electors and the boxes containing said ballots in the office of the city clerk.

Canvass the same as general elections.

SEC. 15. The manner of canvassing said votes shall be the same as prescribed by law for canvassing votes at the general elections held in this State, and the inspectors shall in all other respects except as herein otherwise provided, conform as nearly as may be to the duties required of inspectors of election at such general elections.

Determination of result of election by council.

SEC. 16. The council shall convene on Thursday next succeeding each election at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons were duly elected

CHAPTERS VI—VII.

at the said election to the several offices respectively; and, thereupon, the city clerk shall make duplicate certificates, under the corporate seal of the city, of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively, one of which certificates he shall file in the office of the county clerk, in the county in which the city is located, and the other shall be filed in the office of the city clerk.

SEC. 17. The person receiving the greatest number of votes for any office in the city or ward, shall be deemed to have been duly elected to such office; and if there shall be no choice for any office by reason of two or more candidates having received an equal number of votes, the council shall, at the meeting mentioned in the preceding section, determine by lot between such persons which shall be considered elected to such office.

SEC. 18. It shall be the duty of the city clerk, within five days after the meeting and determination of the council, as provided in section sixteen, to notify each person elected, in writing, of his election; and he shall also, within five days after the council shall appoint any person to any office, in like manner notify such person of such appointment.

SEC. 19. Within one week after the expiration of the time in which any official bond or oath of office is required to be filed, the city clerk shall report, in writing, to the council the names of the persons elected or appointed to any office, who shall have neglected to file such oath and requisite bond or security for the performance of the duties of the office.

Tie vote, how determined.

Notice to persons elected.

Clerk to report neglect of officers to file oath and bond.

CHAPTER VII.

DUTIES AND COMPENSATION OF OFFICERS—THE MAYOR.

SECTION 1. The mayor shall be the chief executive officer of the city. He shall preside at the meetings of the council, and shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the several departments of the city government, see that the laws relating to the city, and the ordinances and regulations of the council are enforced. He shall also countersign all orders and warrants drawn on the city treasurer.

Duties of mayor.

SEC. 2. The mayor shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct.

Conservator of the peace.

SEC. 3. The mayor may remove any officer appointed by him at any time, and may suspend any policeman for neglect of duty. He shall have authority at all times to examine and inspect the books, records, and papers of any agent, employé,

Power of removal or suspension.

CHAPTER VII.

or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the city.

Mayor pro tempore. SEC. 4. In the absence or disability of the mayor, or of any vacancy in his office, the president pro tempore of the council shall perform the duties of mayor.

ALDERMEN.

Duties of aldermen. SEC. 5. The aldermen of the city shall be members of the council and attend the meetings thereof, and act upon committees when thereunto appointed by the mayor or council. As conservators of the peace, they shall aid in maintaining quiet and good order in the city, and in securing the faithful performance of duty by all officers of the city. No alderman shall be elected or appointed to any other office in the city during the term for which he was elected as alderman.

CITY CLERK.

Duties of city clerk. SEC. 6. The city clerk shall keep the corporate seal, and all the documents, official bonds, papers, files, and records of the city, not by this act or the ordinances of the city entrusted to some other officer; he shall be clerk of the council, shall attend its meetings, record all its proceedings, ordinances, and resolutions, and shall countersign and register all licenses granted; he shall, when required, make and certify under the seal of the city, copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be; he shall possess and exercise the powers of township clerk so far as the same are required to be performed within the city; and he shall have authority to administer oaths and affirmations.

Idem. SEC. 7. The city clerk shall be the general accountant of the city, and all claims against the corporation shall be filed with him for adjustment; after examination thereof he shall report the same with all accompanying vouchers and counter claims of the city, and the true balance as found by him to the council for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, which warrant shall be countersigned by the mayor, designating thereon the fund from which payment is to be made, and to take proper receipts therefor; but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised, or appropriated, the clerk shall report the amount thereof to the city treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts thereof to be credited to each fund.

Idem. SEC. 8. The city clerk shall exercise a general supervision over all officers charged in any manner with the receipt, collection, and disbursement of the city revenues, and all the property and assets of the city; he shall have charge of all books, vouchers, and documents relating to the accounts, contracts, debts, and revenues of the corporation; he shall coun-

CHAPTER VII.

tersign and register all bonds issued, and keep a list of all property and effects belonging to the city, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation in all its departments, funds, resources, and liabilities, with a proper classification thereof, and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all the warrants drawn thereon, keeping a separate account with each fund; when any fund has been exhausted the clerk shall immediately advise the council thereof.

SEC. 9. The city clerk shall report to the council whenever required a detailed statement of the receipts, expenditures, and financial condition of the city, of the debts to be paid, and moneys required to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require. He shall extend the taxes upon all assessment rolls.

Financial report, etc.

CITY TREASURER.

SEC. 10. The city treasurer shall have the custody of all moneys, bonds, mortgages, notes, leases, and evidences of value belonging to the city. He shall receive all moneys belonging to and receivable by the corporation, and keep an account of all receipts and expenditures thereof. He shall pay no money out of the treasury except in pursuance of and by authority of law, and upon warrants signed by the clerk and countersigned by the mayor, which shall specify the purpose for which the amounts thereof are to be paid. He shall keep an account of and be charged with all taxes and moneys appropriated, raised, or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay every warrant out of the particular fund constituted or raised for the purpose for which the warrant was issued and having the name of such fund indorsed thereon by the clerk.

Duties of city treasurer.

SEC. 11. The treasurer shall render to the clerk on the first Monday of every month, and oftener if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report. He shall also exhibit to the council annually on the third Monday in March and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balances remaining in each fund, which account shall be filed in the office of the clerk and shall be published in one of the newspapers of the city.

Monthly report.

Annual report.

SEC. 12. Said treasurer shall take receipts for all moneys paid from the treasury, showing the amount and fund from

Treasurer's receipts.

CHAPTER VII.

which payment was made, and the voucher or warrant upon which it was paid, and file the same with the clerk with his monthly report.

Not to use public money for private use.

SEC. 13. The city treasurer shall keep all moneys in his hands belonging to the city separate and distinct from his own moneys, and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidence of debt in his custody or keeping, for his own use or benefit or that of any other person; any violation of this section shall subject him to immediate removal from office by the city council who are hereby authorized to declare the office vacant and to appoint his successor for the remainder of his term.

CITY MARSHAL.

(See also chapter 32)

Powers and duties of marshal.

SEC. 14. The city marshal shall be the chief of police of the city. As police officer, he shall be subject to the direction of the mayor. It shall be his duty to see that all the ordinances and regulations of the council, made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the city are promptly enforced. As peace officer he shall be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. He shall serve and execute all process directed or delivered to him, in all proceedings for violations of the ordinances of the city; such process may be served anywhere within the State.

Idem.

SEC. 15. He shall suppress all riots, disturbances, and breaches of peace, and for that purpose may command the aid of the citizens in the performance of such duty. He shall arrest all disorderly persons in the corporation, and pursue and arrest any person fleeing from justice in any part of the State. He shall arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the State or the ordinances of the city, and forthwith take such person before the proper magistrate or court for examination or trial, and may arrest and imprison persons found drunk in the streets, until they shall become sober.

Marshal's report.

SEC. 16. The marshal shall report in writing, and on oath, to the council at their first meeting in each month, all arrests made by him, and the cause thereof, and all persons discharged from arrest during the month; also, the number remaining in confinement for breaches of the ordinances of the city, the amount of all fines and fees collected by him, all moneys collected or received by the marshal, unless otherwise directed by this act, shall be paid in to the city treasury during the same month when received, and the treasurer's receipt therefor shall be filed with the city clerk.

Fees.

SEC. 17. The city marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services; but in no case shall fees be charged to, or be paid by, the city. He may appoint such number of deputies as the council shall direct and approve, who shall

Appointment of deputies.

CHAPTER VII.

have the same powers and perform the same duties as the marshal, and for whose official acts he shall be in all respects responsible; and the marshal and his deputies shall have the same power to serve and execute all process within the city limits as sheriffs or constables have by law to execute similar process.

CITY ATTORNEY.

SEC. 18. The city attorney, in addition to the other duties prescribed in this act, shall be the legal adviser of the council, and of all officers of the city, and shall act as the attorney and solicitor for the corporation in all legal proceedings in which the corporation is interested, and he shall prosecute for offenses against the ordinances of the city.

CITY SURVEYOR.

SEC. 19. The city surveyor shall have and exercise within the city the like powers and duties as are conferred by law upon county surveyors, and the like effect and validity shall be given to his official acts, surveys, and plats, as are given by law to the acts and surveys of county surveyors. He shall make all necessary plats, maps, surveys, diagrams, and estimates, plans and specifications, required by the council or officers of the city, relating to the public improvements, buildings, grounds, and streets of the city.

STREET COMMISSIONER.

SEC. 20. It shall be the duty of the street commissioner to perform or cause to be performed, all such labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds, and parks within the city as the council shall direct to be done by or under his supervision; and to oversee and do whatever may be required of him in relation thereto by the council.

SEC. 21. He shall make a report to the council in writing and on oath, once in each month, giving an exact statement of all labor performed by him or under his supervision, and the charges therefor, the amount of material used and the expense thereof, and the street or place where such material was used or labor performed, and further showing the items and purposes of all expenses incurred since his last preceding report, and no payment for labor or services performed or for expenses incurred by him shall be made until reported on oath as aforesaid.

CONSTABLES.

SEC. 22. The constables of the city shall have the like powers and authority in matters of civil and criminal nature and in relation to the service of all manner of criminal process as are conferred by law upon constables in townships and shall receive the like fees for their services. They shall have power also to serve all process issued for breaches of the ordinances of the city.

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Duties. SEC. 23. The constables of the city shall obey all lawful orders of the mayor, aldermen, and chief of police, and of any court or justice of the peace exercising jurisdiction in causes for breaches of the ordinances of the city, and shall discharge all duties required of them by any ordinance, resolution, or regulation of the council, and for any neglect or refusal to perform any duty required of him, every constable shall be subject to a penalty of not less than five nor more than fifty dollars. Every constable before entering upon the duties of his office shall give such security for the performance of the duties of his office as is required of constables in townships or as may be required by the council, and file the same with the city clerk.

Penalties for neglect of duties.

Security for performance of duties.

Powers and duties of supervisors. SEC. 24. The supervisors of the several wards are authorized to perform the same duties in relation to the assessment of property as are imposed by law upon supervisors elected in townships, and they shall have the like powers and perform the like duties in all other respects as supervisors so elected, except as herein otherwise provided, so far as such powers and duties are required to be exercised and performed in their wards; they shall represent their several wards in the board of supervisors of the county in which the city is located, and shall have all the rights, privileges, and powers of the several members of such boards of supervisors.

Jury lists. SEC. 25. The supervisors of the several wards shall select and return list of grand and petit jurors to the clerk of the county in the same manner and within the same time as the like duty is required to be performed by township officers.

JUSTICES OF THE PEACE.

Justices of the peace, powers and duties of. SEC. 26. The justices of the peace elected in said city under the provisions of this act shall have, and exercise therein and within the county the same jurisdiction and powers in all civil and criminal matters, causes, suits, and proceedings, and shall perform the same duties in all respects, so far as occasion may require, as are or may be conferred upon or required of justices of the peace by the general laws of the State. They shall have authority to hear, try, and determine all actions and prosecutions for the recovery or enforcing of fines, penalties, and forfeitures for violations of this act, and for encroachments upon, and injuries to, any of the streets, alleys, and public grounds within the city, except in cases where jurisdiction is given to some other court. They shall have authority to hear, try, and determine all suits and prosecutions for the recovery or enforcing of fines, penalties, and forfeitures imposed by the ordinances of the city, and to punish offenders for violations of such ordinances, as in the ordinances prescribed and directed, subject only to the limitations prescribed in section seventeen of chapter nine of this act.

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SEC. 27. The proceedings in all suits and actions before said justices, and in the exercise of the powers and duties conferred upon and required of them, shall, except as otherwise provided in this act, be according to, and be governed by, the general laws applicable to courts of justices of the peace and to the proceedings before such officers.

General laws applicable to suits before justices.

SEC. 28. Every justice of the peace shall enter in the docket kept by him the title of all suits and prosecutions commenced or prosecuted before him for violations of the ordinances of the city, and all the proceedings, and the judgment rendered in every such cause, and the items of all costs taxed or allowed therein; and also the amounts and date of payment of all fines, penalties, and forfeitures, moneys, and costs received by him on account of any such suit or proceeding; such docket shall be submitted by the justice at all times to the examination of any person desiring to examine the same, and shall be produced by the justice to the council whenever required.

Justice's docket.

SEC. 29. All fines, penalties, and forfeitures collected or received by any justice of the peace, for or on account of violations of the penal laws of the State, and all fines, penalties, forfeitures, and moneys collected or received by such justice, for or on account of violations of any ordinances of the city, shall be paid over by such justice to the city treasurer on or before the first Monday of the month next after the collection or receipt thereof, and the justice shall take the receipt of the city treasurer therefor, and file the same with the city clerk.

To pay over money in his hands monthly.

SEC. 30. Every such justice shall report, on oath, to the council at the first regular meeting thereof in each month, the name of every person against whom a prosecution has been commenced, or judgment rendered for any of the fines, penalties, or forfeitures mentioned in the preceding section, and the amount of all moneys received by him on account thereof, or on account of any such suit or prosecution, and the amount thereof paid to the city treasurer since the last preceding report.

Monthly report.

SEC. 31. All fines recovered for the violations of the penal laws of the State, when collected and paid into the city treasury, shall be disposed of as provided by law. The expenses of prosecutions before justices of the peace of the city for violations of said criminal laws, and in punishing the offenders, shall be paid by the county in which the city is located.

Fines and expenses.

SEC. 32. Each justice of the peace, in addition to any other security required by law to be given for the performance of his official duties, shall, before entering upon the duties of his office, give a bond to the city, in a penalty of one thousand dollars, with sufficient sureties to be approved by the mayor, which approval shall be indorsed upon the bond, conditioned for the faithful performance of the duties of justice of the peace within and for the city.

Bond to the city.

SEC. 33. Any justice of the peace who shall be guilty of misconduct in office, or who shall wilfully neglect or refuse to perform or discharge any of the duties of his office required by this act or any of the ordinances of the city, shall be

Penalty for misconduct or neglect of duty.

CHAPTERS VII—VIII.

deemed guilty of a misdemeanor, and punishable accordingly, and may be suspended from office by the council during its pleasure.

To account for property seized as stolen. SEC. 34. Every justice of the peace of the city shall account on oath to the council, at their first meeting in each month, for all such moneys, goods, wares, and property seized as stolen property, as shall then remain unclaimed in his office; and shall make such disposition thereof as shall be prescribed by the ordinances of the city.

Additional powers and duties, etc., of officers. SEC. 35. In addition to the rights, powers, duties, and liabilities of officers prescribed in this act, all officers, whether elected or appointed, shall have such other rights, powers, duties, and liabilities, subject to and consistent with this act, as the council shall deem expedient, and prescribe by ordinance or resolution.

Compensation of officers. SEC. 36. The mayor and aldermen may each receive such salary not exceeding fifty dollars per year as may be prescribed by the council. The city marshal, city clerk, treasurer, city attorney, and engineer of the fire department shall each receive such annual salary as the council shall determine by ordinance. The compensation of supervisors for all services performed by them in connection with the making of assessment rolls and reviewing the same shall be such as the council may from time to time determine. Justices of the peace, constables, and officers serving process and making arrests may, when engaged in causes and proceedings for violations of ordinances of the city, charge and receive such fees as are allowed to those officers for like services by the general laws of the State. All other officers elected or appointed in the city shall, except as herein otherwise provided, receive such compensation as the council shall determine.

Not to be changed during term of office. SEC. 37. The salary or rate of compensation of any officer elected or appointed by authority of this act shall not be increased or diminished during his term of office, and no person who shall have resigned or vacated any office shall be eligible to the same office during the term for which he was elected or appointed, when during the same time the salary or rate of compensation has been increased by the council: Provided, however, That aldermen and supervisors may receive in addition to their salaries such compensation as the council may allow them for services on the board of registration and as inspectors of elections.

Proviso.

CHAPTER VIII.

THE CITY COUNCIL.

Authority of, and of whom composed. SECTION 1. The legislative authority of the city shall be vested in a council consisting of the mayor, two aldermen elected from each ward, and the city clerk.

President. SEC. 2. The mayor shall be president of the council and preside at the meetings thereof, but shall have no vote therein except in case of a tie, when he shall have the casting vote.

President pro tempore. SEC. 3. On the third Tuesday in April in each year the council shall appoint one of their number president pro tem-

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pore of the council, who in the absence of the president shall preside at the meetings thereof and exercise the powers and duties of president. He shall have a vote upon all questions. In the absence of the president and president pro tem. the council shall appoint one of their number to preside, and for the time being he shall exercise the powers and duties of the president pro tem.

Sec. 4. The city clerk shall be clerk of the council but shall have no vote therein. He shall keep a full record of all the proceedings of the council and perform such other duties relating to his office as the council may direct. In the absence of the clerk the council shall appoint one of their number to perform the duties of his office for the time being. Clerk of coun-
cil

Sec. 5. The aldermen, each of whom shall be entitled to a vote in all the proceedings of the council, are required to attend all the meetings and sessions thereof and to serve upon committees whenever appointed thereon. Aldermen to attend meet-
ings.

Sec. 6. The council shall be judge of election returns and qualifications of its own members. It shall hold regular stated meetings for the transaction of business at such times and places within the city as it shall prescribe, not less than two of which shall be held in each month. The council shall by ordinance declare how special meetings shall be called. Judges of election, etc., of members.
Regular and special meet-
ings.

Sec. 7. All meetings and sessions of the council shall be held in public. A majority of the aldermen shall make a quorum for the transaction of business; a less number may adjourn from time to time, and may compel the attendance of absent members in such manner as shall be prescribed by ordinance. But no office shall be created or abolished nor any tax or assessment be imposed, street, alley, or public ground be vacated, real estate, or any interest therein sold or disposed of, or private property be taken for public use, unless by a concurring vote of two-thirds of all the aldermen elect; nor shall any vote of the council be reconsidered or rescinded unless there be present as many aldermen as were present when such vote was taken. No money shall be appropriated except by ordinance or resolution of the council, nor shall any resolution be passed or adopted except by a vote of the majority of all the aldermen elected to office, except as herein otherwise provided. Quorum.
Acts requiring two-thirds vote.

How money appropriated, etc.

Sec. 8. The council shall prescribe the rules of its own proceedings and keep a record or journal thereof. All votes shall be taken by yeas and nays and be so entered upon the journal as to show the names of those voting in the affirmative and those in the negative, and within one week after any meeting of the council all the proceedings and votes taken thereat shall be published in one of the newspapers of the city. Manner of con-
ducting busi-
ness.

Publication of proceedings.

Sec. 9. The council may compel the attendance of its members and other officers of the city, at its meetings, in such manner, and may enforce such fines for non-attendance, as may by ordinance be prescribed; and may by ordinance prescribe punishment for any misbehavior, contemptuous, or disorderly conduct by any member or any person present at any session of the council. Power over its own members and other offi-
cers.

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City officers entitled to seats in council.

SEC. 10. The city attorney, city marshal, street commissioner, city surveyor, and engineer of the fire department shall have seats in the council, and may take part in all its proceedings and deliberations on all subjects relating to their respective departments, subject to such rules as the council shall from time to time prescribe, but without the right to vote. Said officers may be required to attend the meetings of the council in the same manner as members.

Council have control of finances, etc.

SEC. 11. The council shall have control of the finances and of all the property, real and personal, of the city corporation, except as may be otherwise provided by law, and shall have power to direct the deposit of all moneys, bonds, papers, and evidences of value in any safe, bank or banks, and contract with any such bank or banks for the safe keeping of the public moneys, and for the receipt of interest at the rate not exceeding ten per cent. upon such moneys of the corporation deposited with such bank or banks, and to be drawn on account

Bond of banks.

current from such bank or banks by the corporation or proper officers thereof, and such interest shall belong and be credited to the sinking fund. Provided, That when the common council has directed the treasurer to deposit said moneys with any bank or banks, such bank or banks shall give a bond to the city, with sureties and in an amount to be approved by the common council, sufficient to protect the city from loss.

Execution of legal powers.

SEC. 12. Whenever by this act or any other provisions of law, any power or authority is vested in, or duty imposed upon the corporation or council, the council may enact such appropriate ordinances as may be necessary for the execution and exercise of such power and authority, and to regulate the performance of such duty.

Standing committees.

SEC. 13. The council may provide by ordinance for the appointment of standing committees of its members, who shall perform such duties, investigate, have charge of, and report upon such matters as may be properly referred to them. Such committees shall be appointed by the mayor.

Records, books, etc., where deposited, etc.

SEC. 14. The council shall cause all the records of the corporation, and of all proceedings of the council, and all books, documents, reports, contracts, receipts, vouchers, and papers relating to the finances and affairs of the city, or to the official acts or any officer of the corporation (unless required by law to be kept elsewhere) to be deposited and kept in the office of the city clerk, and to be so arranged, filed, and kept as to be convenient of access and inspection, and all such records, books, and papers shall be subject to inspection by any inhabitants of the city or other person interested therein, at all reasonable times, except such parts thereof as, in the opinion of the council, it may be necessary for the furtherance of justice to withhold for the time being. Any person who shall secrete, injure, deface, alter, or destroy any such books, records, documents, or papers, or expose the same to loss or destruction, with intent to prevent the contents or true meaning or import of any thereof from being known, shall, on conviction thereof, be punished by imprisonment in the State prison not longer than one year, or by fine not exceeding one thou-

Penalty for injuring records, etc.

CHAPTER VIII.

sand dollars, or by both such fine and imprisonment in the discretion of the court.

Sec. 15. No member of the council, or alderman [aldermen], shall receive any compensation for his services, either as councilman, alderman, committeeman, or otherwise, except as herein provided. Extra compensation prohibited.

Sec. 16. No member of the council, or any officers of the corporation, shall be interested, directly, or indirectly, in the profits of any contract, job, work, or services (other than official services, to be performed for the corporation). Any member of the council, or officer of the city, herein specified, offending against the provisions of this section, shall upon conviction thereof, be fined not less than five hundred nor more than one thousand dollars, or be imprisoned in the county jail not less than one nor [or] more than six months, or both, in the discretion of the court, and shall forfeit his office. Officers not to be interested in contracts. Penalty.

Sec. 17. Any person appointed to office by the council by authority of this act, may be removed therefrom by a vote of the majority of the aldermen elect; and the council may expel any alderman or remove from office any person elected thereto, by a concurring vote of two-thirds of all the aldermen elect. In case of elective officers, provision shall be made, by ordinance, for preferring charges and trying the same; and no removal of an elective officer shall be made, unless a charge in writing is preferred, and an opportunity given to make a defense thereto. Removal from office.

Sec. 18. To enable the council to investigate charges against any officer, or such other matters as they may deem proper to investigate, the mayor, or any justice of the peace of the city is empowered, at the request of the council, to issue subpoenas or process by warrant, to compel the attendance of persons and the production of books and papers, before the council or any committee thereof. Investigation of charges against officers.

Sec. 19. Whenever the council, or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer of the council or chairman of such committee, for the time being, shall have power to administer the necessary oaths; and such council or committee shall have the same power to compel witnesses to testify as is conferred on courts of justices of the peace. Powers of investigation.

Sec. 20. The council shall audit and allow all accounts chargeable against the city; but no account or claim, or contract, shall be received for audit or allowance, unless it shall be accompanied with an affidavit of the person rendering it to the effect that he verily believes that the services or property therein charged have been actually performed or delivered for the city, that the sums charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are indorsed or referred to in such account or claim; and every such account shall exhibit in detail all the items making up the amount claimed, and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim Auditing claims against the city.

CHAPTERS VIII—IX.

against the city, that it has never been presented, verified as aforesaid, to the council for allowance; or, that the claim was presented without the affidavit aforesaid, and rejected for that reason; or that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

CHAPTER IX.

ORDINANCES.

**Style, vote,
and time of
taking effect.** SECTION 1. The style of all ordinances shall be "The city of Manistee ordains." All ordinances shall require for their passage the concurrence of a majority of all the aldermen elected. All ordinances shall take effect on the second Monday following the publication thereof.

**Power of coun-
cil as to fines
and penalties.** SEC. 2. When, by the provisions of this act, the council of the city has authority to pass ordinances for any purpose, they may prescribe fines, penalties, and forfeitures not exceeding five hundred dollars (unless a greater fine or penalty is herein authorized), or imprisonment not exceeding six months, or both, in the discretion of the court, together with costs of prosecution, for each violation of any of said ordinances, and may provide that the offender on failing to pay any such fine, penalty, or forfeiture, and the costs of prosecution, may be imprisoned for any term not exceeding six months, unless payment thereof be sooner made, and may direct such imprisonment to be in the city prison or in the county jail of the county within which the city is located, or in such other prison or place of confinement, in the State, as the council may prescribe, and that the offender be kept at labor during such imprisonment. Such fine, penalty, forfeiture, and imprisonment for the violation of any ordinance shall be prescribed therein.

**Approval of
ordinances by
mayor.** SEC. 3. On the same day or the next day after the passage of any ordinance, the clerk of the council shall present the same to the mayor or other person performing the duties of mayor, for his approval. No ordinance shall be of any force without the written approval of the mayor or other person performing for the time being the duties of his office, unless he omit to return it to the clerk of the council with his objections thereto, within three days after its presentation to him, in which case it shall be deemed regularly enacted. If, after the return of the ordinance with the objections thereto aforesaid, the same shall be passed or re-enacted by a vote of two-thirds of all the aldermen elected, the ordinance shall be deemed regularly enacted and the time of its re-enactment shall be deemed to be the time of its passage by such two-thirds vote.

**Duty of clerk
as to approval,
etc.** SEC. 4. At the time of presenting any ordinance to the mayor for his approval the clerk of the council shall certify thereon and also in the journal or record of the proceedings of the council the time when the same was so presented, and shall also certify thereon and in such journal or record the

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time of the return of such ordinance and whether approved or with objections, and shall at the next meeting of the council report any ordinance returned with objections thereto.

Sec. 5. No ordinance shall be revived unless the whole or so much as is intended to be revived shall be re-enacted. When any section of an ordinance is amended the whole section as amended shall be re-enacted.

Sec. 6. All ordinances when approved by the mayor or when regularly enacted shall be immediately recorded by the clerk of the council, in a book to be called "The Record of Ordinances," and it shall be the duty of the mayor and clerk to authenticate the same by their official signatures upon such record.

Sec. 7. Within one week after the passage of any ordinance the same shall be published in some newspaper printed and circulated within the city, and the clerk shall, immediately after such publication, enter on the record of ordinances, in a blank space to be left for such purpose under the recorded ordinances, a certificate stating in what newspaper and of what date such publication was made, and sign the same officially, and such certificate shall be prima facie evidence that legal publication of such ordinance has been made.

Sec. 8. In all courts having authority to hear, try or determine any matter or cause arising under the ordinances of the city, and in all proceedings in the city relating to or arising under the ordinances or any ordinance thereof, judicial notice shall be taken of the enactment, existence, provisions, and continuing force of the ordinances of the city. And whenever it shall be necessary to prove any of the laws, regulations, or ordinances of the city, or any resolution adopted by the council, thereof, the same may be read in all courts of justice, and in all proceedings:

- First, From a record thereof kept by the city clerk;
- Second, From a copy thereof, or of such record thereof, certified by the clerk under the seal of the city;
- Third, From any volume of ordinances purporting to have been written or printed by authority of the council.

CHAPTER X.

ENFORCEMENT OF ORDINANCES.

SECTION 1. Prosecutions for violations of the ordinances of the city, shall be commenced within two years after the commission of the offense; and shall be brought within the city.

Sec. 2. Whenever a pecuniary penalty or forfeiture shall be incurred for the violation of any ordinance, and no provision shall be made for the imprisonment of the offender upon conviction thereof, such penalty or forfeiture may be recovered in an action of debt, or in assumpsit; and if it be a forfeiture of any property, it may be sued for and recovered in an action of trover, assumpsit, or other appropriate action.

CHAPTER X.

And whenever a corporation shall incur a penalty or forfeiture for the violation of any ordinance, the same shall be sued for in one of the actions aforesaid.

Idem.

SEC. 3. Such action shall be brought in the name of the city, and shall be commenced by summons. The form, time of return, and service thereof, the pleadings, and all the proceedings in the cause shall, except as otherwise provided herein, conform to and be the same as nearly as may be, as in like actions provided by law for the recovery of penalties for violations of the laws of the State. Upon the rendition of judgment against the defendant, execution shall issue forthwith, and except when against a corporation, shall require, if sufficient goods and chattels cannot be found to satisfy the same, that the defendant be committed to prison, there to remain for a period not exceeding ninety days, unless such execution be sooner paid, or he be discharged by due course of law; but imprisonment without payment shall not operate as a satisfaction of the judgment, nor shall costs be allowed to the defendant in any such action.

Suits commenced by warrant.

SEC. 4. Prosecutions for violations of the ordinances of the city may also, in all cases, except against corporations, be commenced by warrant for the arrest of the offender.

Form of warrant.

SEC. 5. Such warrant shall be in the name of the people of the State of Michigan, and shall set forth the substance of the offense complained of, and be substantially of the form, and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace. And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings, and all proceedings upon the trial of the cause, and in procuring the attendance and testimony of witnesses, and in the rendition of judgment, and the execution thereof, shall, except as otherwise provided by this act, be governed by, and conform as nearly as may be to, the provisions of law regulating the proceedings in criminal causes cognizable by justices of the peace.

Rendition of judgment.

SEC. 6. If the accused shall be convicted, the court shall render judgment thereon, and inflict such punishment, either by fine or imprisonment, or both, not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with such costs of prosecution as the court shall order.

Execution of judgment.

SEC. 7. Every such judgment shall be executed by virtue of an execution or warrant, specifying the particulars of the judgment. If the judgment be for the payment of a fine only, with or without costs, execution of the form prescribed in section three of this chapter shall issue forthwith. If the judgment be for both fine and imprisonment, a warrant shall issue immediately for the commitment of the defendant until the expiration of the term mentioned in the sentence, and an execution shall issue at the same time against the goods and chattels of the defendant for the collection of the fine or forfeiture imposed; but in neither case above mentioned shall the imprisonment, without payment, operate as a satisfaction of the fine and costs imposed. In cases where a fine and imprisonment in default of payment thereof, or where imprison-

CHAPTER X.

ment alone is imposed, a warrant of commitment shall issue accordingly, in the former case, until the expiration of the sentence, unless the fine and costs be sooner paid, and in the latter, for the term named in the sentence.

Sec. 8. The city shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by the ordinances of the city, and the sheriff or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged.

Sec. 9. All process issued in any prosecution or proceeding for the violation of any ordinance of the city, shall be directed to the city marshal, or to any constable of the city or county, and may be executed in any part of the State by said officers or any other officer authorized by law to serve process issued by justices of the peace.

Sec. 10. It shall not be necessary in any suit, proceeding, or prosecution for the violation of any ordinance of the city, to state or set forth such ordinance or any provision thereof, in any complaint, warrant, process, or pleading therein; but the same shall be deemed sufficiently set forth or stated, by reciting its title and the date of its passage or approval. And it shall be a sufficient statement of the cause of action in any such complaint or warrant to set forth substantially, and with reasonable certainty as to time and place, the act or offense complained of, and to allege the same to be in violation of an ordinance of the city, referring thereto by its title and the date of its passage or approval, and every court or magistrate having authority to hear or determine the cause shall take judicial notice of the enactment, existence, and provisions of the ordinances of the city, and the resolutions of the council, and of the authority of the city to enact the same.

Sec. 11. In all prosecutions for violation of the ordinances of the city, either party may require a trial by jury. Such jury, except when [where] other provision is made, shall consist of six persons; and in suits commenced by warrant, shall be selected and summoned as in criminal cases cognizable by justices of the peace, and in suits commenced by summons as in civil causes triable before such magistrates. No inhabitant of the city shall be incompetent to serve as a juror in any cause in which the city is a party, or interested on account merely of such interest as he may have in common with the inhabitants of the city in the result of the suit.

Sec. 12. Any party convicted of a violation of any ordinance of the city, in a suit commenced by warrant as aforesaid, may remove the judgment and proceeding into the circuit court for the county in which the city is located, by appeal or writ of certiorari; and the proceedings therefor, and the bond or security to be given thereon, and the proceedings and disposition of the cause in the circuit court, shall be the

City entitled
to use of coun-
ty jail.

Process, to
whom direct-
ed.

What to set
forth in com-
plaint, etc.

Statement.

Appeal to
circuit court.

Bond on ap-
peal.

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same as on appeal and certiorari in criminal cases cognizable by justices of the peace; and in suits to which the city shall be a party, brought to recover any penalty or forfeiture for such violations, either party may appeal from the judgment, or remove the proceedings by certiorari, into the circuit court; and the like proceedings shall be had therefor and thereon, and the like bond or security shall be given, as in cases of appeal and certiorari in civil causes, tried before justices of the peace, except that the city shall not be required to give any bond or security thereon. The circuit court to which the cause shall be appealed or removed by certiorari, shall also take judicial notice of the ordinances of the city, and the resolutions of the council, and of the provisions thereof.

Fines, by whom receivable.

SEC. 13. All fines imposed for violations of the ordinances of the city, if paid before the accused is committed, shall be received by the court or magistrate before whom the conviction was had. If any fine shall be collected upon execution the officer or persons receiving the same shall immediately pay over the money collected to such court or magistrate. If the accused be committed, payment of the fine and costs imposed shall be made to the sheriff or other keeper of the jail or prison, who shall, within thirty days thereafter, pay the same to said court or magistrate; and the court or magistrate receiving any such fine or penalty, or any part thereof, shall pay the same into the city treasury, except such fines as by the constitution are appropriated for library purposes, on or before the first Monday of the month next after the receipt of the same, and take the treasurer's receipt for and file the same with the city clerk.

Neglect to pay over fines.

SEC. 14. If any person who shall have received any such fine or any part thereof shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor in the name of the city and to prosecute the same to effect. Any person receiving such fine who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

Disposition of fines.

SEC. 15. Fines paid into the city treasury for violations of ordinances of the city, shall be disposed of as the council may direct. The expenses of the apprehension and punishment of persons violating the ordinances of the city, excepting such part as shall be paid by costs collected shall be defrayed by the city.

Jurisdiction of circuit court, etc.

SEC. 16. The circuit court of the county in which the city is located shall have jurisdiction to hear, try and determine all causes arising under the ordinances of the city for violations thereof, when the fine or forfeiture imposed shall exceed two hundred dollars, or where the offender may be imprisoned for a term exceeding three months. The proceedings in the circuit court in all such cases shall be the same as in prosecutions to recover penalties and forfeitures and to punish violations of the criminal laws of the State, and the general laws of the State regulating prosecutions in criminal cases and to recover penalties shall apply.

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SEC. 17. The justices of the peace of the city shall have concurrent jurisdiction in all cases mentioned in the preceding section, but they shall not render judgment for more than two hundred dollars of the penalty or forfeiture imposed by any ordinance for the violation thereof, nor shall they sentence to imprisonment for a longer period than ninety days.

SEC. 18. In all prosecutions for violations of the ordinances of the city commenced by any person other than an officer of the city, the court may require the prosecutor to file security for the payment of the costs of the proceedings in case the defendant is acquitted.

CHAPTER XI.

GENERAL POWERS OF THE CITY CORPORATION.

SECTION 1. The city shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter mentioned; and the council may pass such ordinances in relation thereto, and for the exercise of the same, as they may deem proper, viz.:

First, To restrain and prevent vice and immorality, gambling, noise, and disturbance, indecent or disorderly conduct or assemblages, and to punish for the same; to prevent and quell riot; to preserve peace and good order, and to protect the property of the corporation, and of its inhabitants, and of any association, public or private corporation or congregation therein, and to punish for injuries thereto, or for unlawful interference therewith;

Second, To apprehend and punish vagrants, drunkards, disorderly persons, and common prostitutes;

Third, To prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything tending to cause or promote disease; to prevent and abate nuisances, and to punish those occasioning them, or neglecting or refusing to abate, discontinue, or remove the same; and generally to determine and declare what shall be deemed nuisances;

Fourth, To prohibit and suppress all disorderly houses and places, houses of ill fame, assignation houses, gambling houses and all places where persons resort for gaming or to play at games of chance, and to punish the keepers thereof;

Fifth, To regulate and license billiard tables, nine or ten pin alleys or tables, and ball-alleys, and to punish the keepers thereof;

Sixth, To prohibit and suppress every species of gaming, and to authorize the seizure and destruction of all instruments and devices used for the purpose of gaming;

Seventh, To regulate ale, beer, and porter houses, and all places of resort for tippling and intemperance, and to punish the keepers thereof, and all persons assisting in carrying on the business thereof; and to require all such places to be closed on the Sabbath day, and upon such other days, and during such hours of every night, as the council shall prescribe;

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Spirituos liquors. Eighth, To prohibit and prevent the selling or giving of any spirituous, fermented, or intoxicating liquors to any drunkard or intemperate person, minor, or apprentice, and to punish any person so doing;

Shows, sports, etc. Ninth, To regulate, restrain, and prohibit all sports, exhibitions of natural or artificial curiosities, caravans, circuses, menageries, theatrical exhibitions, shows, and all exhibitions of whatever name or nature for which money or other reward is in any manner demanded or received, lectures on historic, literary, or scientific subjects excepted;

Violation of Sabbath. Tenth, To prevent and punish violations of the Sabbath day, and the disturbance of any religious meeting, congregation, or society, or other public meeting assembled for any lawful purpose; and to require all places of business to be closed on the Sabbath day;

Auctions. Eleventh, To license auctioneers, auctions, and sales at auction, to regulate or prohibit the sale of live or domestic animals at auction in the streets or alleys, or upon any public grounds within the city; to regulate or prohibit the sale of goods, wares, property, or anything at auction, or by any manner of public biddings or offers by the buyers or sellers after the manner of auction sales or Dutch auctions, and to license the same, and to regulate the fees to be paid by and to auctioneers; but no license shall be required in case of sales required by law to be made at auction or public vendue;

Peddlers. Twelfth, To license hawkers, peddlers, and pawnbrokers, and hawking and peddling; and to regulate, license, or prohibit the sale or peddling of goods, wares, merchandise, refreshments, or any kind of property or thing by persons going about from place to place in the city for that purpose, or from any stand, cart, vehicle, or other device, in the streets, highways or in or upon the wharves, docks, open places or spaces, public grounds or buildings in the city;

Wharf boats. Thirteenth, To license and regulate wharf boats, and to regulate the use of tugs and other boats used in and about the harbor, and within the jurisdiction of the city;

Ferries. Fourteenth, To establish or authorize, license and regulate ferries to and from the city, or any place therein, or from one part of the city to another, and to regulate and prescribe from time to time the charges and prices for the transportation of persons and property thereon;

Taverns and saloons. Fifteenth, To regulate and license all taverns and houses of public entertainment; all saloons, restaurants and eating houses;

Hacks. Sixteenth, To license and regulate all vehicles, of every kind, used for the transportation of persons or property for hire, in the city;

Toll bridges. Seventeenth, To regulate and license all toll bridges within the city, and to prescribe the rates and charges for passage over the same;

Inspection of provisions. Eighteenth, To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat, and other provisions;

Brick, lumber, etc. Nineteenth, To regulate the inspection, weighing, and measuring of brick, lumber, fire-wood, coal, hay, and any article of merchandise;

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Twentieth, To provide for the inspection and sealing of weights and measures;

Twenty-first, To enforce the keeping and use of proper ^{weights and measures} Idem. weights and measures by venders;

Twenty-second, To regulate the construction, repair, and use ^{vaults, cisterns, sewers, etc.} vaults, cisterns, areas, hydrants, pumps, sewers, and gutters;

Twenty-third, To prohibit and prevent in the streets or elsewhere in said city indecent exposure of the person, the show, sale, or exhibition for sale of indecent or obscene pictures, drawings, engravings, paintings, and books or pamphlets, and all indecent or obscene exhibitions and shows of every kind;

Twenty-fourth, To regulate or prohibit bathing in the rivers, ^{Bathing.} ponds, streams, and waters of the city;

Twenty-fifth, To provide for clearing the rivers, ponds, and streams of the city, and the races connected therewith of all driftwood and noxious matter; to prohibit and prevent the depositing therein of any filth or other matter tending to render the water thereof impure, unwholesome, and offensive;

Twenty-sixth, To compel the owner or occupant of any grocery, tallow-chandler shop, soap or candle factory, butcher shop, or stall, slaughter-house, stable, barn, privy, sewer, or other offensive, nauseous, or unwholesome place, or house, to cleanse, remove, or abate the same whenever the council shall deem it necessary for the health, comfort, or convenience of the inhabitants of said city; ^{Unwholesome places.}

Twenty-seventh, To regulate the keeping, selling, and using ^{Gunpowder.} of gunpowder, fire-crackers, and fire-works, and other combustible materials, and the exhibition of fire-works, and the discharge of fire-arms, and to restrain the making or lighting of fires in the streets and other open spaces in the city;

Twenty-eighth, To direct and regulate the construction of ^{Drains, cellars, etc.} cellars, slips, barns, private drains, sinks, and privies; to compel the owner or occupant to fill up, drain, cleanse, alter, relay, or repair the same, or to cause the same to be done by some proper officer of the corporation, and to assess the expense [expenses] thereof on the lot or premises having such cellar, slip, barn, private drain, sink, or privy thereon;

Twenty-ninth, To prohibit, prevent, and suppress mock-auctions and every kind of fraudulent game, device, or practice, and to punish all persons managing, using, practicing, or attempting to manage, use, or practice the same, and all persons aiding in the management or practice thereof; ^{Mock auctions.}

Thirtieth, To prohibit, prevent, and suppress all lotteries for ^{Lotteries.} the drawing or disposing of money, or any other property whatsoever, and to punish all persons maintaining, directing, or managing the same, [or aiding in the maintenance, directing, or managing the same;]

Thirty-first, To license and regulate solicitors for passengers ^{Hackmen, runners, etc.} or for baggage for any hotel, tavern, public house, boat, or railroad; also draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles, and vehicles of every other description used and employed for hire, and to fix and regulate the amounts and rates of their compensation;

CHAPTER XI.

Paupers. Thirty-second, To provide for the protection and care of paupers, and to prohibit and prevent all persons from bringing to the city, from any other place, any paupers, [pauper] or other person likely to become a charge upon said city, and to punish therefor;

Census. Thirty-third, To provide for taking a census of the inhabitants of the city, whenever the council shall see fit; and to direct and regulate the same;

General authority to enact ordinances. Thirty-fourth, And further: The council shall have authority to enact all ordinances, and to make all such regulations, consistent with the laws and constitution of the State, as they may deem necessary for the safety, order, and good government of the city, and the general welfare of the inhabitants thereof; but no exclusive rights, privileges, or permits shall be granted by the council to any person or persons, or to any corporation, for any purpose whatever.

Granting licenses. SEC. 2. The council may prescribe the terms and conditions upon which license may be granted, and may exact and require payment of such sum for any license as they may deem proper. The person receiving the license shall, before the issuing thereof, execute a bond to the corporation in such sum as the council may prescribe, with one or more sufficient sureties, conditioned for a faithful observance of the charter of the corporation and the ordinances of the council, and otherwise conditioned as the council may prescribe. Every license shall be revocable by the council at pleasure; and when any license shall be revoked for non-compliance with the terms and conditions upon which it was granted, or on account of any violation of any ordinance or regulation passed or authorized by the council, the person holding such license shall, in addition to all other penalties imposed, forfeit all payments made for such license.

Bond of licensee. SEC. 3. No license shall be granted for any term beyond the first Monday in June thereafter, nor shall any license be transferrable. And the council may provide for punishment by fine or imprisonment, or both, of any person who, without license, shall exercise any occupation, or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of the council.

Terms of enforcing licenses. SEC. 4. All sums received for license granted for any purpose by the city or under its authority, shall be paid into the city treasury [treasurer] to the credit of the contingent fund.

Disposition of money for licenses. SEC. 5. The council shall have authority to permit any railroad company to lay its track, and operate its road with steam locomotives, in or across the public streets, highways, or alleys of the city, as the council may deem expedient, upon such terms and conditions, and subject to such regulations, to be observed by the company, as the council may prescribe; and to prohibit the laying of such track, or the operating of any such road, except upon such terms and conditions.

Crossing of streets by railroads. SEC. 6. The council shall have power to provide for and change the location of [and] grade and [of] street-crossings of any railroad track, to conform to street grades which may be established by the city from time to time; and to construct street-crossings in such manner, and with such protection to

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persons crossing thereat, as the council may require; and to keep them in repair; also, to require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets and to give warning of the approach and passage of trains thereat, and to light such crossings during the night; to regulate and prescribe the speed of all locomotives and railroad trains within the city; but such speed shall not be required to be less than four miles per hour; and to impose a fine not less than five nor more than fifty dollars, upon the company, and upon any engineer or conductor, violating any ordinance regulating the speed of trains.

SEC. 7. The council shall have power to require and compel any railroad company, and any street railway company, to make, keep open and in repair, such ditches, drains, sewers, and culverts, along and under, or across their railroad tracks, as may be necessary to drain their grounds and right of way properly, and in such manner as the council shall direct; and so that the natural drainage of adjacent property shall not be impeded. If any such railroad company shall neglect to perform any such requirement, according to the directions of the council, the council may cause the work to be done at the expense of such company, and the amount of such expense may be collected at the suit of the city against the company, in a civil action, before any court having jurisdiction of the cause.

SEC. 8. The council is authorized to enact all such ordinances and laws at it may deem proper relative to the building, rebuilding, [maintaining], and repairing of partition fences by the owners and occupants of adjoining lots, inclosures, and parcels of land in said city, and relative to the assigning to the owners or occupants of such adjoining pieces of land the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such assignments and divisions when made; and may provide for the recovery of damages from any owner or occupant who shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences, and the council may appoint fence-viewers, and prescribe their duties and mode of proceeding in all cases relating to partition fences in said city.

Partition fences.

SEC. 9. The council may make such provision as they may [shall] deem expedient for the support and relief of poor persons residing in the city; and for that purpose may provide by ordinance for the election or appointment of a director of the poor for the city, and may prescribe his duties and vest him with such authority as may be proper for the due exercise of his duties.

Support of poor.

CHAPTER XII.

CHAPTER XII.

POLICE.

(See also Chapter 32.)

By act 461 of the local acts of 1901, (being chapters 31 and 32 of this charter), those parts of chapters 12 and 29 inconsistent with said chapter 32, are repealed.

**Appointment
of police.**

SECTION 1. The council may provide by ordinance for a police force and for the appointment by the mayor, by and with the consent of the council of such number of policemen and night watchmen as they may think necessary for the good government of the city, and for the protection of the persons and property of the inhabitants, and may authorize the mayor to appoint special policemen from time to time, when in his judgment the emergency or necessity may so require, and may provide for and appoint subordinate officers for the police and night watchmen.

**Rules of
government.**

SEC. 2. The council may make and establish rules for the regulation and government of the police, prescribing and defining the powers and duties of policemen and night watchmen, and shall prescribe and enforce such police regulations as will most effectually preserve the peace and good order of the city, preserve the inhabitants from personal violence, and protect public and private property from destruction by fire and from unlawful depredation. And the mayor is hereby authorized, whenever he shall deem it necessary for the preservation of peace and good order in the city, to appoint and place on duty such number of temporary policemen as in his judgment the emergencies of the case may require, but such appointment, [appointments] unless made in accordance with some ordinance or resolution of the council, shall not continue longer than three days.

**Authority of
marshal as
chief of police.**

SEC. 3. The city marshal subject to the direction of the mayor, shall, as chief of police, have the superintendence and direction of the policemen and night watchmen, subject to such regulation [regulations] as may be prescribed by the council.

**Powers and
duties of
policemen.**

SEC. 4. It shall be the duty of the police and night watchmen and officers of the force, under the direction of the mayor and chief of police, and in conformity with the ordinances of the city, to suppress all riots, disturbances, and breaches of the peace, and to pursue and arrest any person fleeing from justice in any part of the State, to apprehend any and all persons in the act of committing any offense against the laws of the State or the ordinances of the city, and to take the offender forthwith before the proper court or magistrate, to be dealt with for the offense, to make complaint to the proper officers and magistrates of any person known or believed by them to be guilty of the violation of the ordinances of the city or the penal laws of the State, and at all times diligently and faithfully to enforce all such laws, ordinances, and regulations for the preservation of good order and the public welfare as the council may ordain, and to serve all process directed or delivered to them for service [services], and for such purposes

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the chief of police and every policeman and night watchman shall have all powers of constable [constables], and may arrest upon view and without process any person in the act of violating any ordinance of the city or of committing any crime against the laws of the State. And the chief of police and any policeman may serve and execute all process in suits and proceedings for violations of [the] ordinances of the city, and also within [with] the limits of the city, any other process which by law a constable may serve.

SEC. 5. When employed in the service of process police- ^{Fees.} men shall receive the same fees therefor as are allowed to constables for like services; when otherwise engaged in the performance of police duty they shall receive such compensation therefor from the city as the council may prescribe. Every policeman shall report on oath to the council at its first meeting in every month the amount of all moneys and fees received by him for services as policeman since his last preceding report, and the names of the persons from whom received, and the amount received from each.

SEC. 6. The mayor may suspend any policeman or night watchman for neglect of duty, misconduct, or other sufficient cause, and the council may remove from office any policeman appointed thereto at any time. ^{Suspension and removal.}

CHAPTER XIII.

CITY PRISON.

SECTION 1. The council shall have power to provide and maintain a city prison, and such watch or station houses as may be necessary, and may provide for the confinement therein of all persons liable to imprisonment or detention under the ordinances of the city, and for the employment of those imprisoned therein. ^{Council to provide, etc.}

SEC. 2. All persons sentenced to confinement in the city prison, and all persons imprisoned therein, on execution or commitment for the non-payment of fines for violations of the ordinances of the city, may be kept at hard labor during the term of imprisonment, either within or without the prison, under such regulations as the council may prescribe. ^{Prisoner may be kept at hard labor.}

CHAPTER XIV.

PUBLIC HEALTH.

SECTION 1. The council may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants of said city, and to prevent the introduction of malignant, infectious, or contagious diseases within the city, or within one mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto or otherwise, may be suspected or believed to be liable to communicate the same, either beyond the city limits or to such hospital or place of treatment within the city as the council may prescribe, or the public safety may require. ^{Provisions for protection of public health.}

CHAPTER XIV.

Abatement of nuisances. SEC. 2. The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the city; and may require any person, corporation, or company, causing such nuisance, and the owner or occupant of any lot or premises [upon] or in which any such nuisance or cause of disease may be found, to remove or abate the same, upon such notice, and within such time, and in such manner as the council may by ordinance or resolution direct.

Cleaning unwholesome places

SEC. 3. If any cellar, vault, lot, sewer, drain, place, or premises within the city shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce unwholesome or offensive exhalations, the council may cause the same to be drained, filled up, cleaned, amended, or purified; or may require the owner or occupant, or person in charge of such lot, premises, or place, to perform such duty; and may require the owner or occupant of any building, fence, or structure which may be ruinous, or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officers of the city.

Collection of expense by city.

SEC. 4. If any person, corporation, or company shall neglect to remove or abate any nuisance, or to perform any requirement made by or in accordance with any ordinance or resolution of the council, or by the board of health of the city, for the protection of the health of the inhabitants, and if any expense shall be incurred by the city in removing or abating such nuisance, or in causing such duty or requirement to be performed, such expense may be recovered by the city in an action of debt or assumpsit against such person, corporation, or company. And in all cases where the city shall incur any expense for draining, filling, cleansing, or purifying any lot, place, or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such lot or premises, the council may, in addition to all other remedies provided for the recovery of such expense, charge the same, or such part thereof as they shall deem proper, upon the lot or premises upon or on account of which such expense was incurred, or from which such nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.

Assignment of place for offensive or dangerous business.

SEC. 5. The council when they shall deem it necessary may from time to time assign by ordinance certain places within the city for the exercising of any trade or employment offensive to the inhabitants or dangerous to the public health, and may forbid the exercise thereof in places not so assigned, and may change or revoke such assignments at pleasure; and whenever a business carried on in any place so assigned or in any other place in the city shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.

Hospitals and dangerous diseases.

SEC. 6. The council may purchase the necessary lands and erect thereon or otherwise provide one or more hospitals, either within or without the city limits, and provide for the appointment of the officers, attendants, or employés, for the care and

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management thereof and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the city shall seem proper, and by direction of the council or board of health persons having any malignant, infectious, or contagious disease, may be removed to said hospital and there detained and treated when the public safety may so require, and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital until duly discharged.

SEC. 7. The council shall also have and exercise within and for the city all the powers and authority conferred upon boards of health by chapter forty-six of the compiled laws of eighteen hundred and seventy-one, so far as the same are applicable and consistent with this act, and they may enact such ordinance as may be proper for regulating the proceedings and mode of exercising such powers and authority.

Council vested
with powers
of boards of
health.

SEC. 8. The council when deemed necessary may establish a board of health for the city and appoint the necessary officers thereof, and provide rules for its government and invest it with such power and authority as may be necessary for the protection and preservation of the health of the city; and in addition thereto the board shall have and exercise all the power [powers] and authority conferred on boards of health by the compiled laws referred to in the preceding section so far as they may be exercised consistently with the provisions of this act. And the council may prescribe penalties for the violation of any lawful order, rule, or regulation made by the board of health or any officer [officers] thereof.

Establishment
and powers of
boards of
health.

CHAPTER XV.

CEMETERIES.

SECTION 1. The city may acquire, hold, and own such cemetery or public burial place or places either within or without the limits of the corporation, as in the opinion of the council shall be necessary for the public welfare and suitable for the convenience of the inhabitants; and may prohibit the interment of the dead within the city, or may limit such interments therein to such cemetery or burial place as the council may prescribe; and the council may cause any bodies buried within the city, in violation of any rule or ordinance made in respect to such burials, to be taken up and buried elsewhere.

Acquisition
and regulation
as to inter-
ments.

SEC. 2. The council may, within the limitations in this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds, and for the improvement, protection, and care thereof.

Raising money
for.

SEC. 3. Whenever the city shall own, purchase, or otherwise acquire any cemetery or cemetery grounds, the council shall appoint three trustees who shall be freeholders and electors in the city, and who, with the city clerk, shall constitute a board of cemetery trustees. The three trustees so appointed shall hold their offices for the term of three years, except that at the first appointment one shall be appointed for one year, one for two years, and one for three years from the first Monday of

Appointment
of trustees.

Term of office.

CHAPTER XV.

Removal. [in] May in [of] each year when appointed, and annually thereafter one trustee shall be appointed. The council may remove any trustee so appointed, for inattention to his duties, want of proper judgment, skill, or taste for the proper discharge of the duties required of him, or other good cause. Said board shall serve without compensation.

Organization and powers of board. SEC. 4. The board of cemetery trustees shall appoint one of their number chairman, and the city clerk shall be clerk of the board. And the council may, by ordinance, invest the board with such powers and authority as may be necessary for the care, management, and preservation of such cemetery and grounds, the tombs and monuments therein, and the appurtenances thereof; and in addition to the duties herein mentioned, the board shall perform such other duties as the council may prescribe.

Care and management. SEC. 5. Said board, subject to the directions and ordinances of the council, shall have the care and management of any such cemetery or burial place or places, and shall direct the improvements and embellishments of the grounds; cause such grounds to be laid out into lots, avenues, and walks, the lots to be numbered, and the avenues and walks to be named, and plats thereof to be made and recorded in the office of the city clerk. The board shall fix the price of lots and make the sales thereof. The conveyance [conveyances] of such lots shall be executed on behalf of the city by the city clerk, and be recorded in his office at the expense of the purchasers.

Appointment of superintendent, improvement of grounds, etc. SEC. 6. Said board shall appoint the necessary superintendents and employés for the cemetery; expend the money provided for the care and improvement of the grounds; enforce the ordinances of the city made for the management and care thereof; and make such regulations for the burial of the dead, the care and protection of the grounds, monuments, and appurtenances of the cemetery, and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the city and the laws of the State.

Cemetery fund. SEC. 7. All moneys raised for any public cemetery authorized by this act, and all moneys received from the sale of lots therein, or otherwise therefrom, shall be paid into the city treasury, and constitute a fund to be denominated the cemetery fund. Said fund shall not be devoted or applied to any other purpose except the purpose of such cemetery. The board of trustees shall report to the council annually on the first Monday in March, and oftener when the council shall so require, the amount of all moneys received into and owing to the cemetery fund, and from what source, and from whom; and the date, amount, items, and purpose, expenditures and liabilities incurred, and to whom paid, and to whom incurred; and such other matters as the council shall require to be reported, which report shall be verified by the oath of the clerk of the board.

Monthly report. SEC. 8. The council, if the city owns a public burial ground or cemetery, whether within or without the city, may pass and enforce all ordinances necessary to carry into effect the provisions herein, and to control or regulate such cemetery or burial place, and the improvement thereof, and to protect the same and the appurtenances thereof from injury, and to punish vio-

General authority over cemeteries.

CHAPTERS XV—XVI—XVII.

lation [violations] of any lawful orders and regulations made by the board of cemetery trustees.

SEC. 9. The council shall have power also to pass all ordinances deemed necessary for the preservation and protection of any cemetery or burial place within the city, belonging to or under the control of any church, religious society, corporation, company, or association, and for the protection and preservation of the tombs, monuments, and improvements thereof and the appurtenances thereto.

Church ceme-
teries.

CHAPTER XVI.

POUNDS.

SECTION 1. The council may provide and maintain one or more pounds within the city, and may appoint pound-masters, Appointment of pound-mas-
ters. prescribe their powers and duties, and fix their compensation, and may authorize the impounding of all beasts, geese, and other fowls found in the streets or otherwise at large contrary to any ordinance of the city; and if there shall be no pound or pound-master they may provide for the impounding of such beasts, geese, and fowls by the marshal in some suitable place under his immediate care and inspection, and may confer on him the powers and duties of pound-master.

SEC. 2. The council may also prescribe the fees for impounding, and the amount or rate of expenses for keeping, and the charges to be paid by the owner or keeper of the beasts, geese, or fowls impounded, and may authorize the sale of such beasts, geese, and fowls for the payment of such fees, expenses, and charges, and for penalties incurred, and may impose penalties for rescuing any beasts or thing impounded.

Fees and
penalties.

CHAPTER XVII.

HARBORS, WHARVES, AND HARBOR-MASTERS.

SECTION 1. The council shall have the power to establish, Establishment and control of wharves. construct, maintain, and control public wharves, docks, piers, landing places, and levees, basins and canals, upon any lands or property belonging to or under the control of the city, and for that purpose the city shall have the use and control of the shore or bank of any lake or river within the city not the property of individuals, to the extent to which the State can grant the same, and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than five years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

SEC. 2. The council shall have authority also to require and cause all docks, wharves, and landings, whether upon public grounds or upon the property of private individuals, to be constructed and maintained in conformity with such grade as may be established therefor by the council, and prescribe the line

Construction of wharves.

CHAPTERS XVII—XVIII.

beyond which any such wharf, dock, or landing shall not be constructed or maintained.

Purity of
water in
harbors.

SEC. 4. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the city, and within one-half of a mile from the corporate boundaries thereof, to prohibit and punish the casting or depositing therein of any filth, logs, floating matter, or any injurious thing, to control and regulate the anchorage, moorage, and management of all boats, water craft, and floats within the jurisdiction of the city, to prescribe the mode and speed of entering and leaving the harbor and of coming to and departing from the docks, wharves, and landing, by boats, water craft, and floats, and to regulate and prescribe by such ordinances or through a harbor-master or other officer, such location for any boat, craft, vessel, or float, and such changes of station in and use of the harbor as may be required to promote order therein and the safety and convenience of all such boats, crafts, [craft], vessels and floats, and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States and of this State as in the opinion of the council shall be most conducive to the orderly, safe, and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the city.

Tugs and
towage.

SEC. 5. The council may also license and regulate the use of tugs, and prescribe the rates and charges of towage within the harbor or other waters of the city, and regulate the opening and passage of bridges.

Appointment
of harbor-mas-
ter, etc.

Compensation.

SEC. 6. The council may also appoint a harbor-master, wharf-master [wharf-masters], port wardens, and such other officers as may be necessary for the enforcement of all such ordinances and regulations as the council may lawfully enact and prescribe in respect to and over the navigable waters, harbors, wharves, docks, landings, and basins within the city, and in respect to the navigation, trade, and commerce of the city, and prescribe the powers and duties of such harbor-masters and other officers, and to fix the compensation to be paid to them.

CHAPTER XVIII.

FERRIES.

Regulation
and license of.

SECTION 1. The council may regulate and license ferries from the city or any place or landing therein to the opposite shore, or from one part of the city to another; and may require the payment of such reasonable sum for such license as the council shall deem proper; and may impose such reasonable terms and restrictions in relation to the keeping and management of such ferries, and the time, manner, and rates of carriage and transportation of persons and property as may be proper, and provide for the revocation of any such license, and for the punishment, by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries, and regulating those established and licensed.

CHAPTERS XIX—XX.

CHAPTER XIX.

MARKETS.

SECTION 1. The council shall have the power to erect market-houses, establish and regulate markets and market places for the sale of meats, fish, vegetables, and other provisions and articles necessary to the sustenance, convenience, and comfort of the inhabitants; to prescribe the times for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the vendors.

Sec. 2. The council may adopt and enforce such rules and regulations as may be necessary to prevent fraud, and to preserve order in the markets; and may authorize the immediate seizure, arrest, and removal from the market of any person violating its regulations, together with any articles in his or their possession; and may authorize the seizure and destruction of tainted or unsound meats, or other provisions exposed for sale therein.

CHAPTER XX.

PUBLIC BUILDINGS, GROUNDS, AND PARKS.

SECTION 1. The city may acquire, purchase, and erect all such buildings as may be required for the use of the corporation, and may purchase, acquire, appropriate, and own such real estate as may be necessary for public grounds, parks, markets, public buildings, and other purposes necessary or convenient for the public good, and the execution of the powers conferred in this act; and such buildings and grounds, or any part thereof, may be sold, leased, mortgaged, and disposed of as occasion may require.

Sec. 2. When the council shall deem it for the public interest, grounds and buildings for city prisons, work-houses, hospitals, pest-houses, cemeteries, water-works, and other necessary public uses, may be purchased, erected, and maintained beyond the corporate limits of the city; and in such cases the council shall have authority to enforce beyond the limits, and over such lands, buildings, and property, in the same manner and to the same extent as if they were situated within the city, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such prisons, work-house [work-houses], or hospital [hospitals].

Sec. 3. The council shall have authority to lay out, establish, and enlarge, or vacate and discontinue public grounds and parks within the city, and to improve, light, and ornament the same, and to regulate the care thereof, and to protect the same and the appurtenances thereof from obstructions, encroachment, and injury, and from all nuisances.

CHAPTER XXI.

CHAPTER XXI.

SEWERS, DRAINS, AND WATER COURSES.

**Establishment,
construction,
etc.** SECTION 1. The council may establish, construct, and maintain sewers and drains whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the city; and private property, or the use thereof, may be taken thereof in the manner prescribed in this act for taking such property for public use. But in all cases where the council shall deem it practicable, such sewers and drains shall be constructed in the public streets and grounds.

**Board of sewer
commission-
ers.** SEC. 2. If the council shall deem it expedient, they may establish a board of sewer commissioners for the city, consisting of not less than three, nor more than five persons, to have the management of the sewers and the charge of their construction; and may by ordinance prescribe their powers, compensation, terms of office, and duties.

**Plans for
drainage.** SEC. 3. Whenever it may become necessary in the opinion of the council to provide sewerage and drainage for the city or any part thereof, it shall be their duty to devise or cause a plan of drainage to be devised for the whole city, or for such part thereof as they shall determine.

**Main sewer
districts.** SEC. 4. Such plan shall, in the discretion of the council, be formed with the view of the division of the city into main sewer districts, each to include one or more main or principal sewers, with the necessary branches and connections; the districts to be numbered and so arranged as to be as nearly independent of each other as may be. Plats or diagrams of such plan, when adopted, shall be filed in the office of the city clerk.

**Special sewer
districts.** SEC. 5. Main sewer districts may be subdivided into special sewer districts in such manner that each special district shall include one or more lateral or branch sewers connecting with a main sewer, and such lands as in the opinion of the council will be benefited by the construction thereof. When deemed necessary, special sewer districts, to include one or more local or branch sewers and such lands as in the opinion of the council will be benefited by the construction thereof, may be formed of territory not included in any main sewer district.

Trunk sewers. SEC. 6. The council may, however, provide for main or trunk sewers without reference to sewer districts, diagrams or plats of which shall be recorded in the office of the city clerk in the book of sewer records.

**Payment for
sewers.** SEC. 7. The cost and expenses of establishing and making any main or trunk sewers, constructed without reference to sewer districts, shall be paid out of the general sewer fund. Such part as the council shall determine, being not less than one-sixth of the cost and expense of any main district sewer or of the cost of any lateral, branch, or local sewer constructed within a special sewer district, shall be paid from the general sewer fund, and the remainder of such cost and expenses shall be defrayed by special assessment upon all the taxable lands and premises included within the main or special sewer district, as the case may be, in proportion to the estimated bene-

CHAPTER XXI.

fits accruing to each parcel respectively from the construction of the sewer. Assessments according to benefits as aforesaid shall be made without reference to any improvements or buildings upon the lands.

SEC. 8. Before proceeding to the construction of any district sewer, the council shall cause a diagram and plat of the whole sewer district to be made, showing all the streets, public grounds, lands, lots, and subdivisions thereof in the district, and the proposed route and location of the sewer, and the depth, grade, and dimensions thereof, and shall procure an estimate of the cost thereof. And they shall give notice by publication for at least two weeks, in one of the newspapers of the city, of the intention to construct such sewer, and where said diagram and plat may be found for examination, and of the time when the council will meet and consider any suggestions and objections that may be made by parties interested with respect to such sewer.

Diagrams and estimates of cost.

Notice of intention to construct.

SEC. 9. When the council shall determine to construct any such district sewer, they shall so declare by resolution, designating the district and describing by reference to the plat and diagram thereof, mentioned in the preceding section, the route and location, grade, and dimensions of the sewer, and shall determine in the same resolution what part of the estimated expenses of the sewer shall be paid from the general sewer fund, and what part shall be defrayed by special assessment according to benefits; and they shall cause such plat and diagram as adopted to be recorded in the office of the city clerk, in the book of sewer records.

Determination to construct district sewer declared by resolution.

Apportionment of expenses.

Record of plat.

SEC. 10. Special assessments for the construction of sewers shall be made by the board of assessors in the manner provided in this act for making special assessments.

Special assessments.

Formation of districts on petition.

SEC. 11. When the owners of a majority of the lands liable to taxation in any sewer district or part of the city which may be constituted a sewer district, shall petition for the construction of a sewer therein, the council shall construct a district sewer in such location, and if the lands including the line of such proposed sewer are not within any sewer district, a district shall be formed for that purpose. In other cases sewers shall be constructed in the discretion of the council.

Formation of districts on petition.

SEC. 12. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lot or premises; and to keep such private drains in repair and free from obstructions [obstruction] and nuisance; and if such private drains are not constructed and maintained according to such requirements, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

Ordering construction of private drains.

Expense of construction.

SEC. 13. The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe.

Connections with public sewer.

CHAPTERS XXI—XXII.

Annual payment for connection with sewers. SEC. 14. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding two dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon, or otherwise.

Special assessment for ditches. SEC. 15. Such part of the expenses of providing ditches and improving water-courses as the council shall determine, may be defrayed by special assessment upon the lands and premises benefited thereby, in proportion to such benefits.

Repairing and reconstructing. SEC. 16. The expenses of repairing public sewers, ditches, and water-courses may be paid from the general sewer fund. The expenses of reconstructing public sewers shall be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

Protection and control of. SEC. 17. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to drainage of the city.

CHAPTER XXII.

STREETS AND PUBLIC GROUNDS.

Control and repairing of streets and public grounds. SECTION 1. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks, and public grounds within the city, and shall cause the same to be kept in repair and free from nuisance.

Care of streets not accepted by council. SEC. 2. But the city shall not be responsible for the care, improvement, or repairs [repair] of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked, and used by the public as a street or alley before the incorporation of the city under this act, nor for the improvement or [and] repair of any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall be accepted and confirmed by the council by an ordinance specially passed for that purpose.

Laying out, altering or vacating streets. SEC. 3. The council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate, or abolish any highway, street, or alley in the city whenever they shall deem the same a public improvement, and if in so doing it shall be necessary to take or use private property, the same may be taken in the manner in this act provided for taking private property for public use. The expense of such improvement, except the amounts paid for private property taken for public streets, may be paid by special assessments upon the property adjacent to or benefited by such improvements [improvement] in the manner in this act provided for levying and collecting special assessments, or, in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general street fund.

Expenses thereof.

CHAPTER XXII.

SEC. 4. When the council shall deem it advisable to vacate Vacating streets.
discontinue, or abolish any street, alley, or public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than four weeks thereafter, when they shall meet and hear objections thereto. Notice of such meeting with a copy of said resolution shall be published for not less than four weeks before the time appointed for such meeting, in one of the newspapers of the city. Objections to such proposed action of the council may be filed with the city clerk in writing and if any such shall be filed, the street, alley, or public ground, or any part thereof shall not be vacated or discontinued except by a concurring vote of two-thirds of the aldermen elect.

Notice of meeting to hear objections.

Filing objections.

Effect of such filing.

SEC. 5. The council may cause all public streets, alleys, and public grounds to be named, re-named, and surveyed, and may determine and establish the boundaries thereof, and cause the surveys and description thereof to be recorded in the office of the city clerk, in a book of street records; and they shall cause surveys and descriptions of all streets, alleys and public grounds opened, laid out, named, re-named, altered, extended, or accepted and confirmed by the council to be recorded in like manner, and such record shall be prima facie evidence of the existence of such streets, alleys or public grounds as in the records described. Every resolution or ordinance discontinuing, vacating, naming, or re-naming any street, alley or public ground, shall also be recorded in said book of street records, and the record shall be prima facie evidence of all the matters therein set forth.

Survey and naming of streets.

SEC. 6. The council shall have authority to determine and establish the grades of all streets, avenues, alleys, and public grounds within the city, and to require improvements and buildings adjacent to or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade; and the council may change or alter the grade of any street, alley, or public ground, or any part thereof, whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be made in the book of street records in the office of the city clerk.

Grades and adjacent improvements.

SEC. 7. Whenever any street, alley, or public highway shall have been graded, or pavement shall have been constructed in conformity to grades established by authority of the city, and the expense thereof, shall have been assessed upon lots or lands bounded by or abutting upon such street, alley, or public highway, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, street, alley, or public highway, unless such change be asked for by a majority of the owners of such lots or lands; but the expense of all improvements occasioned by such change of grade shall be chargeable to, and paid by the city.

Expense of change of grade.

SEC. 8. If any damage shall result to any owner by a change of the established grade of any street, alley, sidewalk, wharf, or landing, the council may, in their discretion, levy and collect the amount thereof by special assessment upon the lots

Damages for change of grade.

CHAPTER XXII.

benefited thereby, and therewith pay the same; but the city shall incur no liability by reason of anything in this section contained.

PAVING AND IMPROVEMENTS.

Authority for. SEC. 9. The council shall have power to grade, pave, plank, gravel, curb, and otherwise improve and repair the highways, streets, avenues, lanes, and alleys of the city; and for that purpose, and for defraying the expenses thereof, may divide the city into street districts. The term "paving" shall be deemed to include the construction of crosswalks, gutters and curbing.

Paving defined. SEC. 10. Such part of the expenses of improving any street, lane, or alley, by grading, paving, planking, graveling, curbing, or otherwise, and of repairing the same as the council shall determine, may be paid from the general street fund or from the street district fund of the proper street district, or in part from each; or the whole, or such part of the expense of such improvement, as the council shall determine, may be defrayed by special assessments upon lots and premises included in a special assessment district to be constituted of the lands fronting upon that part of the street or alley so improved or proposed so to be; or constituted of lands fronting upon such improvement, and such other lands as in the opinion of the council may be benefited by the improvement.

Apportionment of expenses. SEC. 11. When expenses for any such improvement or repairs shall be assessed in a special assessment district, and there shall be lands belonging to the city, school buildings, or other public buildings, or public grounds not taxable, fronting upon such improvement, such part of the expense of such improvement as in the opinion of the council or board of assessors making a special assessment would be justly apportionable to such public grounds, buildings and city property, and to any interior squares or spaces formed by the intersection of streets, were they taxable, shall be paid from the general street fund, or from the proper street district fund, or partly from each, as the council shall determine to be just, and the balance of such expenses shall be assessed upon the taxable lots and premises included in the special assessment district, in proportion to their number of feet frontage upon such improvement; or, if the special assessment district shall include other lands not fronting upon the improvement, then upon all the lands included in such special assessment district in proportion to the estimated benefits resulting thereto from the improvement. When such assessment is to be made upon lots in proportion to their frontage upon the improvement, if from the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessments upon other lots, the council or board of assessors making the assessment may assess such lot for such number of feet frontage as in their opinion will be just.

CHAPTER XXII.

STREET REGULATIONS.

SEC. 12. The council shall have power to prohibit and prevent obstructions and incumbrances in, and encroachments upon, the public highways, streets, and alleys of the city, and to remove the same; and to punish those who shall obstruct, incumber, encroach, or maintain any encroachments upon or in any such highway, street, or alley; and to require all such persons to remove every such obstruction, incumbrance, and encroachment.

SEC. 13. The council may provide for and regulate the planting of shade and ornamental trees in the public ways, streets, and avenues of the city, and for the protection thereof; and may light the streets and public places, and regulate the setting of lamps and lamp posts therein, and protect the same.

SEC. 14. The council may regulate the making of all openings in, and removals of, the soil of public streets, for the laying or repair of sewers, drains, tunnel, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of the soil, except by express permission of the council, and at such times and upon such terms [and regulations] as they may prescribe.

SEC. 15. The council may regulate the use of the public highways, streets, avenues, and alleys of the city, subject to the right to travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; to designate the places where loads of wood, coal, hay, and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use, or placing of signs, advertisements, and banners, awning posts, and telegraph poles in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges, to regulate or prohibit all such sports, amusements, proceedings, and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of horses, cattle, swine, dogs, geese, and other domestic animals or fowls in the streets, or elsewhere in the city and to impose penalties upon the owners or keepers thereof permitting the same, and to require and authorize the destruction of dogs found at large contrary to the ordinances of the city; to cleanse and purify the streets; and to prohibit, prevent, remove, and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets as may be necessary to secure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city as are conferred by law upon highway commissioners in townships.

Obstructions and encroachments.

Shade trees.

Lighting streets.

Digging in streets for laying pipe, etc.

Regulations as to use of.

Stands for vehicles.

Wood and hay market.

Signs.

Telegraph poles.

Immoderate driving.

Crowds.

Animals running at large.

Dogs.

Cleaning.

General powers of council.

CHAPTERS XXII—XXIII.

Poll tax. SEC. 16. The council shall have power to levy and cause to be collected in each year a poll or capitation tax upon every male inhabitant of the city between the ages of twenty-one and fifty years; excepting acting [active] members of the fire department and such other persons as are exempted from the payment of such tax by the general law; and the council shall by ordinances [ordinance] prescribe the time and manner of assessing and collecting said tax and the penalty for neglect and [or] refusal to comply with the provisions of such ordinance. All taxes, moneys collected, and fines received by the city pursuant to this section, shall be used exclusively for working and improving the highways, streets, lanes, and alleys of the city.

Money to be used exclusively for highway purposes.

CHAPTER XXIII.

SIDEWALKS.

Construction and expense. SECTION 1. The city council shall have control of all sidewalks in the public streets and alleys of the city, and may prescribe the grade thereof and change the same when deemed necessary. They shall have power to construct and maintain sidewalks and crosswalks in the public streets and alleys and charge the expense thereof upon the lots and premises adjacent to and abutting upon such walks.

Idem. SEC. 2. The council shall also have authority to require the owners and occupants of lots and premises to construct and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction, and within such time as the council shall by ordinance or resolution prescribe.

Removal of snow, etc. SEC. 3. The council shall also have power to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, incumbrances, filth and other nuisances.

Proceedings in case of neglect. SEC. 4. If the owner or occupant of any lot or premises shall fail to construct or maintain any particular sidewalk as mentioned and prescribed in the last two sections, or shall fail to keep the same in repair or to remove the snow, ice, and filth therefrom, or to remove or keep the same free from obstructions, encroachments, incumbrances, or other nuisances, or shall fail to perform any other duty required by the council in respect to such sidewalk [sidewalks], within such time and such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be constructed or repaired at the expense of such owner or occupant, and the amount of all expenses incurred by the council thereby shall be levied as a special assessment upon the lot or premises adjacent to or abutting upon such sidewalk.

Expense tax on property. SEC. 5. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts, and of other

Regulations as to signs, awnings, etc.

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things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks and of all vaults, structures and excavations under the same, and to prohibit and prevent obstructions, incumbrances, or other nuisances upon the walk.

SEC. 6. If any owner, occupant, or person in charge of any lot or premises shall neglect to repair any sidewalk in front of or adjacent to such premises, or to remove any snow or ice therefrom, or to keep the same free from obstructions and incumbrances, in accordance with the requirements of the ordinances and regulations of the council, he shall be liable to the city for the amount of all damages which shall be recovered against the city for any accident or injury occurring by reason of such neglect.

Owners liable for injuries.

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COST OF IMPROVEMENTS.—SPECIAL ASSESSMENTS.

SECTION 1. The cost and expense of the following improvements, including the necessary lands therefor, viz.: For city hall and other public buildings and offices for the use of [the] city officers, engine houses and structures for the fire department, for water-works, market houses and spaces, cemeteries and parks, watch houses, city prisons, and work-houses, lands appropriated for streets and rights of way, and public wharves and landings upon navigable waters, levees, and embankments, shall be paid from the proper general funds of the city. When by the provisions of this act the costs [cost] and expenses of any local or public improvement may be defrayed in whole or in part by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement, such assessment may be made as in this chapter provided.

Improvements to be paid from general fund.

Special assessments.

SEC. 2. (See also Sec. 10, Chap. 31.) There shall be a board of assessors in every city, consisting of the city surveyor and two other members, who shall be freeholders and electors in the city, to be appointed by the council. Their compensation shall be prescribed by the council. Special assessments authorized by this act shall be made by such board. If a member of the board shall be interested in any special assessment directed by the council they shall appoint some other person to act in his stead in making the assessment, who, for the purpose of that assessment shall be a member of the board.

Board of assessors, duties and compensation.

SEC. 3. When the council shall determine to make any public improvement or repairs, and defray the whole or any part of the cost and expenses thereof by special assessment, they shall so declare by resolution, stating the improvement, and what part or proportion of the expenses thereof shall be paid by special assessment, and what part if any, has been appropriated from the general funds of the city, or from street district funds, and shall designate the district or lands and premises upon which the special assessment shall be levied.

Apportionment of expenses.

SEC. 4. Before ordering any public improvements or repairs any part of the expenses of which is to be defrayed by

Estimates, plans, etc., deposited with clerk.

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Notice of meeting to consider objections.

Ordering of work.

What cost to include, and per cent of special assessment.

Assessment levied before making improvement.

Assessment to be pro rata.

Assessment roll, etc.

Assessments according to frontage.

According to benefits.

special assessment, the council shall cause estimates of the expense thereof to be made, and also plats and diagrams when practicable, of the work and of the locality to be improved, and deposit the same with the city clerk for public examination; and they shall give notice thereof and of the proposed improvement or work, and of the district to be assessed, by publication for two weeks at least in one of the newspapers of the city, and of the time when the council will meet and consider any objection thereto. Unless a majority of the persons to be assessed shall petition therefor, no such improvement or work shall be ordered, except by the concurrence of two-thirds of the aldermen elect.

SEC. 5. The costs and expenses of any improvement which may be defrayed by special assessment shall include the cost of survey, plans, assessments, and costs of construction. In no case shall the whole amount to be levied by special assessment upon any lot or premises for any one improvement exceed twenty-five per cent of the value of such lot or land, as valued and assessed for State and county taxation in the last preceding ward tax roll; any cost exceeding that per cent which would otherwise be chargeable on such lot or premises, shall be paid from the general funds of the city.

SEC. 6. Special assessments [assessment], to defray the estimated cost of any improvement, shall be levied before the making of the improvement.

SEC. 7. When any special assessment is to be made pro rata upon the lots and premises in any special district, according to frontage or benefits, the council shall, by resolution, direct the same to be made by the board of assessors; and shall state therein the amount to be assessed, and whether according to frontage or benefits; and describe or designate the lots and premises, or locality constituting the district to be assessed.

SEC. 8. Upon receiving such order and direction [directions], the board of assessors shall make out an assessment roll, entering and describing therein all the lots, premises, and parcels of land to be assessed, and the valuation thereof, with the names of the parties [persons], if known, chargeable with the assessments thereon, and shall levy thereon and against such persons the amount to be assessed, in the manner directed by the council and the provisions of this act, applicable to the assessment; and when such assessment is completed, they shall report the same to the council.

SEC. 9. If the assessment is required to be according to frontage, they shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length of front of such premises abutting upon the improvement bears to the whole frontage of all the lots to be assessed; unless on account of the shape or size of any lot, an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits, they shall assess upon each lot such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot from the improvement.

SEC. 10. When any expense shall be incurred by the city upon or in respect to any separate or single lot or parcel of

CHAPTER XXIV.

land, or premises which by the provisions of this act the council is authorized to charge and collect as a special assessment against the same, and not being of that class of special assessments required to be made pro rata upon several lots or parcels of land in an assessment district an account of the labor or service [services] for which such expense was incurred, verified by the officer or person performing the labor or services, with a description of the lot or premises upon or in respect to which the expense was incurred and the name of the owner or person chargeable therewith, shall be reported to the council in such manner as the council shall prescribe.

SEC. 11. The council shall determine what amount or part of every such expense shall be charged, and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment; and as often as the council shall deem it expedient they shall require all of the several amounts so reported and determined, and the several lots or premises, and the persons chargeable therewith respectively, to be reported by the city clerk to the board of assessors for assessment.

SEC. 12. Upon receiving the report mentioned in the preceding section, the board of assessors shall make a special assessment roll, and levy as a special assessment therein upon each lot or parcel of land so reported to them, and against the person chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid to be levied upon each of such lots or premises respectively, and when completed they shall report the assessment to the council.

SEC. 13. When any special assessment shall be reported by the board of assessors to the council, as in this chapter directed, the same shall be filed in the office of the city clerk, and numbered. Before adopting the assessment, the council shall cause notice to be published for two weeks at least, in some newspaper of the city, of the filing of the same with the city clerk, and appointing a time when the council and board of assessors will meet to review the assessment. Any person objecting to the assessment may file his objections thereto in writing with the city clerk.

SEC. 14. At the time appointed for that purpose as aforesaid, the council and board of assessors shall meet, and there, or at some adjourned meeting, review the assessment; and the council shall correct the same if necessary and confirm it as reported, or as corrected; or they may refer the assessment back to the board for revision; or annul it and direct a new assessment, in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the city clerk shall indorse a certificate thereof upon the roll showing the date of confirmation.

SEC. 15. When any special assessment shall be confirmed by the council, it shall be final and conclusive; but no such assessment shall be confirmed, except by the concurrence of two-thirds of the aldermen elect.

SEC. 16. All special assessments shall, from the date of the confirmation thereof, constitute a lien upon the respective lots.

Assessments
other than
those to be
made pro rata.

Expense
charged
against indi-
vidual lots.

Report by
clerk to asses-
sors.

Special asses-
ment roll.

Report to
council.

Filed with city
clerk.

Notice of
meeting to
review.

Objections
filed with
clerk.

Review, cor-
rection, and
disposition of
roll.

Certificate of
confirmation.

Confirmation
final.

Vote on con-
firmation.

Assessments a.
lien, etc.

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or parcels [of land] assessed, and shall be a charge against the person [persons] to whom assessed until paid.

Division into installments.

SEC. 17. Upon the confirmation of any special assessment, the amount thereof may be divided into not more than five installments, one of which shall be collected each year at such time as the council shall determine, with annual interest at a rate not exceeding eight per cent.

Due on confirmation.

SEC. 18. All special assessments, except such installments thereof as the council shall make payable at a future time as provided in the preceding section, shall be due and payable upon confirmation.

Special assessment roll for each installment.

SEC. 19. If any special assessment shall be divided into installments a special assessment roll shall be made for each installment as the same shall become due, with the accrued interest upon all unpaid installments included and assessed therein. Such special rolls may be made and confirmed without notice to the person [persons] assessed.

Collection of, in case of division of lots.

SEC. 20. Should any lots or land be divided after a special assessment thereon has been confirmed and divided into installments and before the collection of all the installments, the council may require the board of assessors to apportion the uncollected amounts upon the several parts and [of] lots of [and] land [lands] so divided. The report of such apportionment when confirmed, shall be conclusive upon all the parties, and all assessments thereafter made upon such lots or land [lands] shall be according to such division.

Additional assessment in case of deficiency.

SEC. 21. Should any special assessment prove insufficient to pay for the improvement or work for which it was levied and the expenses incident thereto, the council may within the limitations prescribed for such assessments, make an additional pro rata assessment to supply the deficiency, and in case a larger amount shall have been collected than was necessary, the excess shall be refunded ratably to those by whom it was paid.

Surplus re-refunded.

SEC. 22. Whenever any special assessment shall, in the opinion of the council, be invalid by reason of any irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All the proceedings on such re-assessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or any part thereof levied upon any premises in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the re-assessment on such premises, and the re-assessment shall to that extent be deemed satisfied.

Lien not impaired by vacating assessment.

SEC. 23. No judgment or decree nor any act of the council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might have been lawfully assessed thereon.

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SEC. 24. When any special assessment shall be confirmed, Collection of
special assess-
ments and be payable as hereinbefore provided, the council shall direct the assessment so made in the special assessment roll to be collected directly therefrom; and thereupon the city clerk shall attach his warrant to a certified copy of said special assessment roll, therein commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein; and in case any person named in said roll shall neglect or refuse to pay his assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person, and return said roll and warrant together with his doings thereon, in sixty days from [the] date of such warrant. Collection by
distress and
sale.

SEC. 25. Upon receiving said assessment roll and warrant, Seizure and
sale of goods. the city treasurer shall proceed to collect the amounts assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the city, or elsewhere within the county belonging to such person, and sell the same at public auction, first giving six days' notice of the time and place of such sale by posting such notice [notices] in three of the most public places in the city, or township, where such property may be found. The proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment, and a percentage of five per centum upon the amount of the assessment for the costs and expenses of said seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto. Disposition of
proceeds.

SEC. 26. The city treasurer shall also make return of said assessment roll and warrant to the city clerk according to the requirement of the warrant, and if any of the assessments in said roll shall be returned unpaid, the treasurer shall attach to his return a statement, verified by affidavit, containing a list of the persons delinquent, and a description of the lots and premises upon which the assessments remain unpaid, and the amount unpaid on each. Disposition of
money and re-
turn of roll and
warrant.

SEC. 27. Said warrant may be renewed from time to time Renewal of
warrant. by the city clerk, if the council shall so direct, and for such time as they shall determine, and during the time of such renewal the warrant shall have the same force, and the city treasurer shall perform the same duties and make the like returns, as above provided. In case any assessment shall be finally returned by the city treasurer unpaid, as aforesaid, the same may be certified to the supervisor of the proper ward, and then shall be re-assessed, with interest included, at the rate of ten per cent from the date of the confirmation of the assessment until the first day of February then next, in the next ward tax-roll, and be collected and paid in all respects as hereinbefore provided. Reassessment
with interest.

SEC. 28. At any time after a special assessment has become Collection by
suit. payable, the same may be collected by suit, in the name of the city, against the person assessed, in an action of assumpsit, in any court having jurisdiction of the amount. In every such action a declaration upon the common count for money paid

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shall be sufficient. The special assessment roll and a certified order or resolution confirming the same shall be *prima facie* evidence of the regularity of all the proceedings in making the assessment, and of the right of the city to recover judgment thereof.

Judgment not
withstanding
irregularities.

SEC. 30. If in any such action it shall appear that by reason of any irregularities or informality the assessment has not been properly made against the defendant, or upon the lot or premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the city, which is a proper charge against the defendant, or the lot or premises in question, render judgment for the amount properly chargeable against such defendant, or upon such lot or premises.

CHAPTER XXV.

APPROPRIATION OF PRIVATE PROPERTY.

Purposes for
which private
property may
be appropri-
ated.

SECTION 1. Private property may be appropriated for public use in the city for the purpose of opening, widening, altering, and extending streets, alleys, and avenues, for the construction of bridges, for buildings and structures for the fire department, for public grounds, parks, market places, and spaces, for public wharves, docks, slips, basins, and landings, on navigable waters, and for the improvement of water courses, for sewers, drains, and ditches, for water-works, and for necessary public buildings, hospitals, pest-houses, and public cemeteries. But such property shall not be taken therefor without the consent of the owner, unless the necessity for using the same and the just compensation to be made therefor shall be determined by a jury of twelve freeholders, residing in the city, nor shall any improvement requiring the taking of private property be made, except with the concurrence of two-thirds of all the aldermen elected to office. The council may, however, acquire such property by negotiation and purchase.

Manner of
acquiring.

By purchase.

Proceedings
when seizure
is necessary.

Impaneling
jury.

Notice of ap-
plication for
jury.

SEC. 2. When the council shall deem it necessary to make any public improvement requiring the taking or using of private property not acquired by purchase, they shall so declare by resolution describing the proposed improvement and each parcel of land designed to be taken by metes and bounds, giving the names of the owners or persons interested therein so far as known, and shall in the same resolution designate a justice of the peace of the city to whom an application will be made at a time therein to be stated for the impaneling of a jury to ascertain the necessity of using said land and the just compensation to be made therefor.

SEC. 3. Upon the passage of the resolution mentioned in the preceding section, a certified copy thereof shall be filed with said justice of the peace, and notice of the time and place of making said application, including a copy of said resolution, shall be given by publishing the same for three weeks in one of the newspapers of the city, the first publication of which shall be at least thirty days before the time fixed for the appli-

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cation. And a copy of said notice and resolution shall be served personally by the city marshal or the sheriff of the county, at least two weeks before the time for said application, upon each owner and person interested in said lands, so far as known, and upon the guardian of any minor or incompetent person interested therein, if to be found within the city or elsewhere in the county; and if any such guardian, owner, or person interested in the premises shall not be found within the city or county, a copy of said notice and resolution shall be posted upon the premises to be taken the same length of time before making the application, and return by the sheriff or city marshal of the service or posting of copies of said notice and resolution (which return shall be conclusive as to the matters therein stated), and an affidavit of the publication of said notice and resolution shall be filed with the said justice before or at the time of making said application. And after the publication and service of posting of said notice as aforesaid the owners and all persons interested in any of the lands sought to be taken for said improvement, shall take notice of and be bound by all the subsequent proceedings without further notice, except as herein otherwise provided.

SEC. 4. At the time appointed therefor in said notice and resolution, or at such other time as the proceedings shall be adjourned to by said justice, he shall, upon the application of the city attorney, cause the city marshal or sheriff of the county to make a list of the names of twenty-four disinterested freeholders residing in said city, competent to serve as jurors. From said list the city attorney shall strike off six names, and the owner or owners and persons interested in said lands shall strike off six names, or, upon their failing to do so, the justice shall strike off such names for him or them; and thereupon the said justice shall issue a venire, directed to the city marshal or sheriff of the county, to summon the twelve persons whose names remain upon said list, to appear before said justice at a time and place in said venire to be named, not less than three nor more than six days from the date thereof, to make a jury to inquire of and determine the matters referred to in said resolution; and shall then adjourn the further proceedings in the matter to the return day of said venire. Said venire shall be served by the city marshal or sheriff, as in other cases of venire. Said jurors shall be liable for non-attendance the same as jurors summoned to appear in justices' courts, and may be excused for the same causes as jurors in those courts.

SEC. 5. At the time of making the application to the justice for the empaneling of the jury, and at all subsequent proceedings, any infant or incompetent person may be represented by his or her guardian appointed under the laws of this State; but if there should be no such guardian, or if no such guardian shall appear to represent such infant or incompetent person, the justice before proceeding with the matter, shall appoint some disinterested person as guardian ad litem, to protect the interest of the person for whom he is so appointed.

SEC. 6. If upon the return day of said venire a sufficient number of competent jurors shall not attend in answer to the summons, or if any shall be excused or set aside, the justice

Service of copy of notice.

Return of officer.

Effect of notice.

Impaneling jury.

Liability for non-attendance.

Protection of infants or incompetent persons.

Completing panel of jury.

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Challenge. shall require the marshal or sheriff to summon immediately a sufficient number of other competent freeholders of the city, until a panel of twelve qualified jurors shall be obtained. Each party, and every person having any [an] interest in any of the lands, shall have the right to challenge any juror for cause, and the justice shall determine as to the competency of the juror. Such juror shall be sworn to ascertain and determine the necessity of taking the parcel or several parcels of land sought to be taken for the purpose set forth in said resolution, and if taken, to determine and award, to each person entitled thereto, the just compensation to be allowed for his or her interest in the land so taken.

Copy of notice, plat, etc., to be given jury. SEC. 7. When the jury shall have been sworn, the city attorney shall deliver to them a copy of the said notice and resolution of the council, and a map or plat of the proposed improvement, showing the location of the boundaries of each parcel of land sought to be taken, and its position in relation to adjoining lands. And any person claiming an interest in any of the lands sought to be taken, although not named in said resolution as an owner or party interested, may then file with the justice a statement of his interest in, and a description of the property in respect to which he claims compensation, and a copy of the same shall be delivered to the jury.

Persons may file statement of interest. SEC. 8. The jury shall then, or at such other time as the justice shall direct, proceed to examine the premises sought to be acquired, and testimony may be produced before them under the direction of the court as in cases of ordinary jury trials before justices of the peace so far as applicable. Upon closing the testimony the justice shall instruct the jury as to the provision of this chapter relating to their duties.

Jury to examine premises, etc. SEC. 9. The jury shall consider upon each parcel of land described in the resolution of the council separately. If they shall find it necessary to take the same for the purposes [purpose] of said improvement, they shall determine and award the compensation to be made therefor. If only a part of any lot or parcel of land shall be taken, they shall estimate the whole damages occasioned thereby; and also any special and particular benefit resulting to the remainder of the premises from the proposed improvement; and shall award as damages and compensation such sum only as shall remain after deducting said estimated benefit. If several persons shall have separate claims upon the same lot or parcel of land, as owners, mortgagees, lessees, or otherwise they shall apportion to each such share of the damages awarded as shall be just. Damages for taking the lands of any deceased person may be awarded to his estate.

To be instructed by justice. SEC. 10. The jury shall make a report of their determination and awards in writing. They shall describe therein by metes and bounds each piece or parcel of land which they shall find it necessary to take for the purpose of said improvement, and state the whole amount of damage [damages] occasioned by taking the same, the amount deducted therefrom if any, for special benefits resulting from the improvement to the remainder of the lot or premises from which the part appropriated is taken, and the net amount awarded as damages and

Determination and award by jury.

Report.

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compensation therefor, the name of the owner and of any persons having separate claims thereon, by mortgage, lease, or otherwise, to whom said damages are awarded and the amount awarded to each, and the date and description of any mortgage, lease, or lien, by virtue of which such claim is made. When conflicting claims are made to any damage [damages] awarded, the jury, without deciding between the claimants, shall report the fact, their names, and the amount awarded for the land. They shall report the lands, if any, as to which they fail to agree. Said report, signed by each juror, shall be returned to the justice within ten days after the impaneling of the jury.

Sec. 11. The city attorney shall give such assistance to the jury in making up their report as they may require. The justice shall enter said report and all the proceedings had in the cause before him in his docket.

Sec. 12. A disagreement of the jury as to one or more distinct parcels of land shall not affect the awards and reports in which they have agreed, and upon any such disagreement the justice may, upon the motion of the city attorney, impanel a new jury in the same manner as provided for drawing the original jury, and like proceedings shall thereupon be had as to the lands concerning which there was a failure to agree, and a new jury may in like manner be had as often as necessary. If any juror during the course of the proceedings shall be unable to discharge his duties the justice may appoint another in his place who shall have the like qualifications, and be sworn, and exercise the same duties as the other jurors of the panel.

Sec. 13. Upon filing the report and award made by any jury with said justice, a copy thereof may be taken by the city attorney for the use of the council, and at any time thereafter and within forty days after the impaneling of the jury making the report, the justice, upon the application of the city council, shall enter judgment of confirmation of the determination and awards therein made. Unless such application and confirmation shall be made within said forty days, all proceedings upon that report and award shall be at an end, and a new jury and new proceedings may be had as in the case of a disagreement of the jury. All parties interested in such report shall take notice of the confirmation thereof. Any such judgment of confirmation shall be final and conclusive as to all parties not appealing therefrom within the time prescribed in the next section.

Sec. 14. Any party aggrieved by the judgment of confirmation mentioned in the preceding section may, within ten days after the entry thereof, appeal therefrom to the circuit court of the county by filing with the justice a claim of appeal in writing, in which he shall set forth a description of the land in which he claims an interest, his interest therein, and all the errors relating to the proceedings and judgment of which he complains, and his objections, if any, to the amount of damages awarded, and at the same time filing with the justice a bond to the city in a penal sum of not less than three hundred dollars with sureties to be approved by said justice, con-

*City attorney
to assist.
Entry of
report.*

*Disagreement
of jury.*

*Appointment
if juror unable
to discharge
duties.*

*Copy of report,
etc., for use of
council.*

*Judgment of
confirmation.
When not
made in forty
days.*

*Judgment
final.*

*Appeal to
circuit court.*

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ditioned that he will prosecute his appeal to effect and pay any costs that may be awarded against him in the circuit court, and paying to the justice the sum of three dollars for making his return to the appeal.

Bill of exceptions.

SEC. 15. At the time of filing said claim of appeal the appellant shall present to the justice a statement in the nature of a bill of exceptions containing so much of the evidence and other proceedings in the matter as shall be sufficient to present the question to be raised upon the errors and objections alleged in the claim of appeal, and shall at the same time serve a copy thereof and of the claim of appeal upon the city attorney, who may propose amendments to said bill. Within ten days after said bill is presented said justice shall, if necessary, cause the same to be corrected according to the facts of the case, and sign the same, and within ten days thereafter said justice shall make and certify a return to said appeal setting forth a transcript from his docket of all the proceedings and the judgment of confirmation entered therein, and shall attach thereto the report of the jury and all notices and papers filed with him, together with the bond and claim of appeal and said bill of exceptions, and file the same with the clerk of said circuit court.

When court may remand case to justice.

SEC. 16. Upon filing the return of the justice as mentioned in the preceding section, the circuit court shall have jurisdiction of the case, and upon the hearing thereof shall first consider the errors alleged in said claim of appeal, and if the proceedings are found invalid as to the party appealing on account thereof, the court shall remand the case, so far as affects the appellant, to said justice, and a new jury may be called and the like proceedings had as upon the original application for a jury. If no error affecting the merits shall be found in the proceedings, the parties may proceed to trial by jury at the same term upon the question as to the amount of damages to be awarded, but the finding of the jury before the justice as to the necessity of taking the land shall be held to be conclusive. The appeal of one or more persons interested in any judgment of confirmation shall not in any way affect said judgment as to other persons interested therein who do not appeal.

Judgment.

SEC. 17. Upon any dismissal of the appeal or rendition of judgment after trial in the circuit court, said court shall confirm the proceedings and right of the city to take and appropriate the lands of the appellaunt for the purpose mentioned in the resolution of the council. And unless the appellant shall recover judgment for at least ten dollars more than the amount awarded to him before the justice, he shall pay costs to the city, otherwise the court shall award such costs to him as shall be just.

Costs.
Record and copies of judgment evidence of regularity of proceedings.

SEC. 18. Certified copies of any judgment of confirmation of the circuit court or of the justice of the peace, after the same has become final and of the report of the jury thereby confirmed, and records of such copies made in the book of street records, in the office of the city clerk, shall be presumptive evidence of the matters therein contained and of the regularity of all the proceedings to appropriate the property sought to be acquired and to confirm the same.

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SEC. 19. Within six months after the judgment of confirmation by the circuit court, or after the judgment of confirmation by the justice shall become final, the council may pay or tender to the respective persons the several amounts of damage and compensation awarded to them, as finally confirmed. And in case any such person shall refuse the same, be unknown or a non-resident of the city, or be not found therein, or shall be incapacitated from receiving his or her amounts, or the right to any sum awarded be disputed or doubtful, the council may deposit the amount awarded in such case with a statement of the facts relating thereto, in the treasury of the city, to the credit of the person or persons entitled thereto, and the same shall be paid on demand to any person entitled to receive it. No delay in making any award [reward] of damages, or in taking possession of any property, shall be occasioned by any doubt as to the ownership of the property, or as to the interest of the respective parties making claims thereto.

Damages, payment of.

Where deposited when person unknown or incapacitated

SEC. 20. Upon the payment, tender, or deposit mentioned in the preceding section, the fee of the land sought to be taken with the appurtenances, and the right to occupy the property sought to be used, shall vest in the city, and the council may convert and use the same. A certificate of the treasurer, of such payment, tender, or deposit, or a record of such certificate in the book of street records, or a certified copy thereof, shall be presumptive evidence of the matters therein stated, and of the ownership of the city in the lands and property taken.

When right to property vests in city, etc.

SEC. 21. In all cases where any real estate, subject to a lease or agreement, shall be taken for public use, all the covenants and stipulations therein shall end upon the judgment of confirmation in the circuit court, or upon the confirmation by the justice, when the same shall become final. If a part only of such real estate shall be taken, the said covenants and agreements shall be discharged only as to such part.

Effect of judgment on leases.

CHAPTER XXVI.

FINANCE AND TAXATION.

SECTION 1. The fiscal year of the city organized under this act shall commence on the third Monday in March in each year, unless otherwise provided by ordinance.

Fiscal year.

SEC. 2. The council of the city shall have authority, within the limitations herein prescribed, to raise annually, by taxation within the corporation, such sum of money as may be necessary to defray the expense [expenses] and pay the liabilities of the city, and to carry into effect the powers in this act granted.

Raising money by taxation.

SEC. 3. The revenues raised by general tax upon all the property in the city, or by loan to be repaired by such tax, shall be divided into the following general funds:

Division into funds.

First, Contingent fund,—to defray the contingent and other expenses of the city for the payment of which from some other fund, no provision is made.

Contingent.

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Fire department. Second, Fire department fund,—to defray the expense of purchasing grounds, erecting engine-houses thereon, purchasing engines and other fire apparatus, and all other expenses necessary to maintain the fire department of the city;

General street. Third, General street fund,—to defray the expenses of opening, widening, extending, altering, and vacating streets, alleys, and public grounds, and for grading, paving, curbing, graveling and otherwise improving, repairing, and cleaning the streets, alleys, and public grounds of the city, and for the construction and repair of sidewalks and crosswalks, and for the care thereof;

General sewer. Fourth, General sewer fund,—to defray the expenses of sewers, drains, ditches, and drainage, and the improvement of water courses;

Bridge. Fifth, Bridge fund.—for the construction and maintenance of bridges;

Water. Sixth, Water fund,—for constructing reservoirs, and cisterns, and providing other supplies of water;

Public building. Seventh, Public building fund,—for providing for public buildings, and for the purchase of land therefor, and for the erection, preservation, and repair of any such public buildings, city hall, offices, prisons, watch-houses, and hospitals as the council is authorized to erect and maintain, and not herein otherwise provided for;

Police. Eighth, Police fund,—for the maintenance of the police of the city, and to defray the expenses of the arrest and punishment of those violating the ordinances of the city;

Cemetery. Ninth, Cemetery fund;

Interest and sinking fund. Tenth, Interest and sinking fund,—for the payment of the public debt of the city and the interest thereon;

Other general. Eleventh, Such other general funds as the council may from time to time constitute.

Special fund. SEC. 4. Revenues and moneys raised by taxation in special districts of the city shall be divided into the following special funds:

Street district. First, A street district fund for each street district for defraying the expenses of grading, improving, repairing and working upon the streets therein, and for the payment of all street expenses which the council shall charge upon street district;

District sewer. Second, A district sewer fund for each main sewer district, for the payment of the costs and expenses of sewers and drainage in and chargeable to the main sewer district, when the city shall be divided into such districts;

Special assessment. Third, Special assessment funds. Any money raised by special assessment levied in any special assessment district or special sewer district, to defray the expenses of any work, paving, improvement, or repairs or drainage therein, shall constitute a special fund for the purpose for which it was raised.

Amount may be raised by general tax. SEC. 5. The aggregate amount which the council may raise by general tax upon the taxable real and personal property in the city for the purpose of defraying the general expenses and liabilities of the corporation, and for all purposes for which the several general funds mentioned in section three of this chapter are constituted (exclusive of taxes for schools and

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school-house purposes), shall not, except as herein otherwise provided, exceed in any one year, so long as the population of the city does not exceed nine thousand inhabitants, one and one-half per cent; When it shall have a population of more than nine thousand and not exceeding fourteen thousand inhabitants, one and three-fourths per cent; and when the city shall have a population of more than fourteen thousand inhabitants, two per cent of [on] the assessed value of all the real and personal property in the city made taxable by law.

SEC. 6. The council may also raise by tax in each street district, for defraying the expenses of working upon, improving and repairing, and cleaning the streets of the district, and for all purposes for which the street district fund above mentioned is constituted, a sum not exceeding in any one year one-fourth per cent on the assessed value of the taxable real and personal property in the district. Amount for repairing streets.

SEC. 7. In addition to the above amounts, the council may raise by special assessment in sewer districts and special assessment districts [district], for the purpose of grading and paving, curbing, graveling, and otherwise improving the streets, and for constructing sewers and drains, and making other local improvements chargeable upon the lands and property in the district, according to frontage or benefits, and for all other purposes for which the main sewer funds and special assessment funds are constituted, such sums as they shall deem necessary, but not exceeding in any one year five per cent of [on] the assessed value of the property in the sewer district or special assessment district, as the case may be, as shown by the last preceding assessment rolls of the city. Amount in sewer and special assessment districts for local improvements.

SEC. 8. A tax or assessment of not more than two dollars per year may be levied upon each lot or premises drained by a private sewer or drain leading into any public drain or sewer. Amount for public sewer.

SEC. 9. The council may also raise such further sum annually, not exceeding three mills on the dollar of the assessed valuation of the property in the city, as may be necessary to provide an interest and sinking fund to pay the funded debts of the city and the interest thereon. Interest and sinking fund.

SEC. 10. It shall be the duty of the council to cause estimates to be made in the month of September in each year, of all the expenditures which will be required to be made from the several general funds of the city during the next fiscal year, for the payment of interest and debts to fall due, or for lands to be acquired, buildings to be erected or repaired, bridges to be built, and for the paving of streets, the construction of sewers, making improvements, and for the support of the police and fire departments, and for defraying the current expenses of the year, and for every other purpose for which any money will be required to be paid from any of the several general funds during such fiscal year; and also, to estimate the amounts that will be required to be expended from street district funds during said next fiscal year in working upon, improving, and repairing the streets in the several street districts of the city. Estimate of expenditures.

SEC. 11. The council shall also in the same month determine the amount required to be raised in the next general tax Determination of amount to meet deficiencies, etc.

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levy to meet any deficiencies for the current year; also the amount or part of any assessment which they require to be levied or re-assessed in the next general tax rolls of the city upon lands in any main sewer or special assessment district, or upon any parcel of land, or against any particular person as a special assessment.

Annual appropriation bill.

SEC. 12. The council shall also in the said month of September pass an ordinance, to be termed the annual appropriation bill, in which they shall make provisions [provision] for and appropriate the several amounts required to defray the expenditures and liabilities of the corporation for the next fiscal year, payable from the several general funds, and from the street district funds [fund] as estimated and determined upon, as provided in section ten of this chapter, and order the same, or so much of said [such] amounts as may be necessary, to be raised by tax with the next general tax levy, or by loan or both, and to be paid into the several general funds and street district funds of the city; but the whole amount so ordered to be raised by tax or loan, or by both, shall not, except as herein otherwise provided, exceed the amount which the city is authorized by sections five, six and nine of this chapter, to raise by general tax during the year. The council shall specify in such ordinance the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose, and to each of the general funds and street district funds. The council shall also designate in the appropriation bills the sums, if any, required to be levied to meet any deficiency for the current year, and the amount, or any part of any special assessment, or other sum which they require to be levied or reassessed with the next general tax as mentioned in section eleven of this chapter, and the disposition to be made of such moneys; and shall also designate in said bill any local improvements which they may deem advisable to make during the next fiscal year, to be paid for in whole or in part by special assessments, and the estimated cost thereof.

When and to whom all sums ordered must be certified.

SEC. 13. All sums ordered in the annual appropriation bill in any year to be raised for the several general funds shall be certified to the clerk of the board of supervisors of the county, on or before the first Monday of October, and all such sums shall be levied and collected with the State and county taxes next thereafter to be levied in the city.

No further sums to be used or raised after passage of bill except as herein provided.

SEC. 14. After the passage of the annual appropriation bill, no further sums shall be used, raised, or appropriated; nor shall any further liability be incurred for any purpose, to be paid from any general fund or street district fund, during the fiscal year for which the appropriation was made, unless the proposition to make the appropriation shall be sanctioned by a majority vote of the freeholders possessing the qualifications of electors voting upon the proposition at the next annual city election. But this section shall not prohibit the council from making any necessary repairs or expenditures [expenditure] at a cost not exceeding five thousand dollars, the necessity for which is caused by casualty or accident, happening after making the annual appropriation for the year, and from loaning the money therefor.

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Sec. 15. No improvement, work, repairs, or expense, to be paid for out of any general fund, or street district fund, excepting as herein otherwise provided, shall be ordered, commenced, or contracted for, or incurred in any fiscal year, unless in pursuance of an appropriation specially made therefor, in the last preceding annual appropriation bill; nor shall any expenditure be made, or liability be incurred, in any such year, for any such work, improvement, repairs, or for any purpose, exceeding the appropriation so made therefor; nor shall any expenditure be made, or money [be] paid out of any general, or street district fund, for any purpose, unless appropriated for that purpose in said bill.

Sec. 16. No work or improvement to be paid for by special assessment, costing more than three thousand dollars, shall be ordered, commenced, or contracted for; nor shall any assessment be levied therefor, in any year, unless the intention to make such improvement or expenditure, and to defray the cost thereof by special assessment, was set forth in the last preceding annual appropriation bill.

Sec. 17. No public work, improvement, or expenditure shall be commenced, nor any contract therefor be let or made, except as herein otherwise provided, until a tax or assessment shall have been levied to pay the cost and expense thereof, and no such work or improvement shall be paid for, or contracted to be paid for, except from the proceeds of the tax or assessment thus levied.

Sec. 18. Instead of levying a tax for the whole amount authorized by this act to be raised in that manner in any year for the purpose of the general and street districts funds, the council may, in its discretion, raise a part thereof by tax and a part thereof by loan: Provided, That the aggregate amount of taxes and loans so raised and made, shall not exceed the amount for which a tax might be levied for the same year.

Sec. 19. The council shall also have authority to raise money [moneys] by loan in anticipation of the receipts from special assessments, for the purpose of defraying the costs of the improvement for which the assessment was levied. Such loan shall not exceed the amount of the assessment for the completion of the work.

Sec. 20. Should any greater amount be required in any year for the purpose of erecting public buildings, or for the purchase of ground therefor, or for other public improvements or purposes, to be paid for from the general funds of the city, than can be raised by the council under the foregoing provisions of this chapter, such amount may be raised by tax or loan, or partly by tax and partly by loan, if authorized by a majority vote of the freeholders voting upon the question at an annual city election. The amount that may be voted or raised in any year, under the provisions of this section, shall not exceed two per cent of the assessed valuation of the property in the city as shown by the last preceding tax rolls made therein.

Sec. 21. The proposition to raise such additional amount shall be submitted to a vote of the freeholders by an ordinance or resolution of the council, distinctly stating the purpose of

Improvements
to be made in
pursuance of
appropriation,
etc.

Cost of im-
provements
not specified in
appropriation
bill.

Tax levied be-
fore work
commenced.

Loan for gen-
eral and street
fund.

Loan for spe-
cial assess-
ments.

Raising money
by vote of
electors.

Limit of
amount.

Submitting
the question to
vote

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Notice.	the proposed expenditure, the amount proposed to be raised therefor, and whether by tax or loan. Such ordinance or resolution shall be passed and published in one of the newspapers of the city, and copies thereof posted in five of the most public places in each ward of the city, at least two weeks before the election at which the vote is to be taken. Such vote shall be by ballot.
Vote.	
Moneys credited to fund.	SEC. 22. All moneys and taxes raised, loaned, or appropriated for the purposes of any particular fund, shall be paid in and credited to such fund, and shall be applied to the purpose [purposes] for which such moneys were raised and received, and to none other; nor shall the moneys belonging to one fund be transferred to any other fund, or be applied to any purpose for which such other fund is constituted, except when there shall be a surplus in any general fund, at the close of any fiscal year. In such case the surplus may be transferred to the sinking fund, should there be a deficiency in that fund, otherwise the council may apply such surplus as they shall deem proper. Moneys not received or appropriated for any particular fund shall be credited to the contingent fund.
Surplus.	
Contingent fund.	
How money drawn from treasury.	SEC. 23. No money shall be drawn from the treasury except in pursuance of the authority and appropriation of the council, and upon the warrant of the clerk, countersigned by the mayor. Such warrant shall specify the fund from which it is payable, and shall be paid from no other fund.
Warrants not to be drawn after fund exhausted.	SEC. 24. No warrant shall be drawn upon the treasury, after the fund from which it should be paid has been exhausted; nor when the liabilities outstanding and previously incurred and payable from such fund are sufficient to exhaust it. Any warrant, draft, or contract payable by the provisions of this act from any particular fund, excepting bonds given for loans herein authorized and issued or made after such fund has been exhausted by previous payments or by previous liabilities payable from such fund, shall be void as against the city.
Loans and bonds.	SEC. 25. No loans shall be made by the council, or by its authority, in any year, exceeding the amounts prescribed in this act. For any loans lawfully made, the bonds of the city may be issued, bearing a legal rate of interest. A record showing the dates, numbers, and amounts issued, and when due, shall be kept by the city clerk. When deemed necessary by the council to extend the time of payment, new bonds may be issued in place of former bonds falling due, in such manner as merely to change, but not increase the indebtedness of the city. Each bond shall show upon its face the class of indebtedness to which it belongs, and from what fund it is payable.
Auditing accounts at close of fiscal year.	SEC. 26. Immediately upon the close of the fiscal year the council shall audit and settle the accounts of the city treasurer and other officers of the city, and the accounts also, as far as practicable, of all persons having claims against the city, or accounts with it not previously audited; and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, which statement shall distinctly show the amount of all taxes raised during the preceding year for all purposes, and the amount raised for each fund; the amount levied by special assessments, and the
Annual financial statement.	

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amount collected on each; and the amount of money borrowed, and upon what time and terms, and for what purpose; also the items and amounts received from all other sources during the year, and the objects thereof, classifying the expenditures for each purpose separately. Said statement shall also show the amount and items of all indebtedness outstanding against the city, and to whom payable, and with what rate of interest; the amount of salary or compensation paid or payable to each officer of the city for the year, and such other information as shall be necessary to a full understanding of all the financial concerns of the city.

Sec. 27. Said statement, signed by the mayor and clerk, Where statement filed. shall be filed in the office of the city clerk and a copy thereof published in one of the newspapers in the city, at least five days previous to the next annual city election.

Sec. 28. If any officer of the corporation shall, directly or indirectly, appropriate or convert any of the moneys, securities, evidences of value, or any property whatsoever, belonging to the corporation or any board thereof, to his own use, or shall, directly or indirectly and knowingly, appropriate and [or] convert the same to any other purpose than that for which such moneys, securities, evidences of value, or property may have been appropriated, raised, or received, or to any purpose not authorized by law, he shall be deemed guilty of wilful and corrupt malfeasance in office, and may be prosecuted, tried, and convicted thereof, and, on conviction, may be punished by fine, not exceeding one thousand dollars, or by imprisonment in the State prison for a period not exceeding three years, or both, in the discretion of the court.

Appropriation of public money to private use prohibited.

Penalty.

CHAPTER XXVII.

ASSESSMENT AND COLLECTION OF TAXES.

(See also Chapter 31.)

By Act 461 of the Local Acts of 1901 (being Chapters 31 and 32 of this Charter) those parts of Chapter 27, inconsistent with said Chapter 31, are repealed.

SECTION 1. The supervisors of said city shall in each year make and complete an assessment of all the real and personal property within their respective wards liable to taxation under the laws of the State, and of all the property of any person liable to be assessed therein, in the same manner and within the same time as required by law for the assessment of property in the townships of the State, and in so doing they shall conform to the provisions of law governing the action of supervisors of townships performing like services, and in all other respects within their respective wards they shall, unless otherwise in this act provided, conform to the provisions of law applicable to the actions and duties of supervisors in townships, in the assessment of property.

Assessment of property.

Sec. 2. If any person residing in the city a part of the time during the year shall, in the opinion of any supervisor, unjustly or falsely claim exemption from taxation therein on the ground that he or she has a residence, and is taxed or liable to

In case of false claim of exemption.

CHAPTER XXVII.

taxation elsewhere than in said city, the supervisor shall, notwithstanding, assess such person for such amount of personal property as in his opinion shall be just, and such assessment shall be conclusive as to the liability of such person to be assessed and to pay the tax levied in pursuance thereof, unless such person shall present to the officer requiring payment of such tax a receipt duly signed and authenticated by the affidavit of some other collector of taxes, and also by the affidavit of the person charged with the tax, showing that such person has paid a tax upon all of the same property for the same year to such other collector or receiver of taxes.

Personal property. SEC. 3. All personal property found in any ward may be assessed therein whether the owner thereof resides in such ward or elsewhere. If there shall be any doubt as to the ward in which any person should be assessed for personal property belonging to such person, the board of review hereinafter mentioned may direct as to the ward in which the assessment shall be made, and any assessment so made shall be conclusive as to the liability of such person to be assessed in such ward for said property.

Equalization. SEC. 4. For the purpose of assessing all property equally in the whole city, the supervisors of the several wards shall meet and confer together from time to time while making their assessment, and equalize their valuations in such manner as may be just.

Board of review. SEC. 5. The supervisors of the several wards, together with the city attorney shall constitute a board of review of assessments. At the time appointed by law for the review of assessments made by supervisors of townships, the said board of review shall meet at the office of the city clerk and there proceed to review and correct the assessments made by the supervisors in the several wards, and for that purpose said board shall have the same powers and perform the same duties in all respects as supervisors of townships in reviewing and correcting assessments made by them. Said board shall continue in session not less than three days for the purpose of completing such review. Notice of the time and place of the meeting of said board for the purpose aforesaid shall be given by the city clerk by publication in one of the newspapers of the city at least one week before the time for the review.

Notice. SEC. 6. When the board shall have reviewed and corrected the assessment rolls of the several wards, they shall, in addition to the certificate required to be made by the supervisor, add their own certificate to each roll, signed by at least a majority of them, showing that they have received the roll, and within thirty days thereafter each supervisor shall deliver his assessment roll to the city clerk to be filed in his office for the use of the council. The board of review shall have authority to equalize, alter, amend, and correct any assessment or valuation, and to place upon the assessment roll of the proper ward any taxable property, real or personal, not already assessed, held, or owned by any person or persons, and to strike from said roll any property wrongfully thereon. The concurrence of a majority of the board shall be sufficient to decide any question in altering or correcting any assessment.

Certificate of board.

Further powers of board.

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SEC. 7. On or before the first Monday of October in each year the city clerk shall certify to the county clerk of the county in which the city is located, the aggregate amount of all sums which the council require to be raised for the year for all purposes by general taxation upon all the taxable property of the whole city.

SEC. 8. Said county clerk, as clerk of the board of supervisors of the county, shall apportion the amount to be raised, as mentioned in the preceding section, among the several wards of the city, according to the valuation of the property appearing upon the assessment rolls of said several wards of the city for such year, as equalized by the board of supervisors, and certify to the city clerk of said city for assessment therein the amounts so apportioned to the several wards within five days after the board of supervisors of the county shall have completed the equalization of the valuation of the property in said wards, and in the townships of the county for the year.

SEC. 9. The city clerk, at the time of leaving [levying] State Tax roll. and county taxes in the city for the year, shall levy in the same roll, upon all the taxable property in the city, the amounts certified to him by the clerk of the board of supervisors, as provided in section eight of this chapter, to be raised for the city, and also for school, and library purposes, placing the city taxes in one column, and the school, library, two-mill, and school-house taxes in another column; and he shall also levy, in the same roll, upon the lands, property, and persons chargeable therewith, all special assessments and sums, whether for assessment or re-assessment in street districts, main or special sewer districts, or for other special assessments, placing all such taxes in a column of special assessments, and shall place the State and county taxes in other columns. The amount of the several taxes so levied upon each valuation shall be carried into another column.

SEC. 10. The city clerk, upon completing the rolls, shall certify to the city treasurer the amounts of taxes levied in the rolls for State and county purposes, and he shall charge the amount thereof to the city treasurer. The city treasurer shall give bond to the county treasurer in the same manner as township treasurers are required to do; and thereupon, and on or before the first Monday in December, the city clerk shall deliver the tax-rolls with the taxes extended therein as aforesaid, to the city treasurer, with his warrant for the collection of the taxes therein annexed thereto.

SEC. 11. The warrants annexed to each roll shall state the several amounts levied therein to be paid into the city and county treasurers [treasuries] respectively; and shall command the city treasurer to collect from the several persons named in the said roll the several sums named in the last column thereof opposite their respective names, and the warrant shall authorize the treasurer in case any person shall neglect or refuse to pay his tax to levy the same by distress and sale of the goods and chattels of such person.

SEC. 12. All taxes levied in any ward tax roll shall be and remain a lien upon the lands upon which they are levied until paid.

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Powers of city treasurer as to collection of taxes. SEC. 13. For the collection of all taxes the city treasurer shall proceed in the same manner as township treasurers are required by law to do for the collection of taxes in townships, and shall for that purpose have all the powers and authority conferred by law upon township [townships] treasurers for such purposes, and shall, when necessary, enforce the payment of the tax against any person by distress and sale of his goods and chattels if any such can be found anywhere within the county.

Distress and sale of property.

New warrant. SEC. 14. The county treasurer may issue new warrants to the city treasurer for the collection of taxes in the same manner and in the same cases, and with the same effect as such new warrant may be issued to township treasurers. The city treasurer may and it shall be his duty to proceed by suit in the name of the city for the collection of unpaid taxes, in the same cases and under like circumstances in which township treasurers are authorized to proceed in that manner, and all the provisions of law applicable to suits and the evidence therein brought by township treasurers in the name of their township, for such purposes, shall apply to suits brought by the city treasurer as aforesaid.

Collection by suit.

Wards considered as townships, etc. SEC. 15. For the purpose of assessing and levying taxes in the city for State, county, school, and library purposes, each ward shall be considered the same as a township, and all provisions of law relative to the collection of taxes levied in township shall apply to the collection of taxes levied and assessed in such city, except as herein otherwise provided. For the purpose of collecting taxes and returning property for non-payment thereof, the treasurer shall perform the same duties and have the same powers as township treasurers, except as herein otherwise provided. For the collection of all taxes under this act the city treasurer shall be entitled to and shall receive the same emoluments and fees as are by law provided for township treasurers in rendering like services, except as herein otherwise provided.

City same as township in respect to delinquent taxes. SEC. 16. All the provisions of law respecting delinquent taxes levied in townships shall apply to all taxes levied in any city, and be returned as delinquent to the county treasurer; and the city, in respect to taxes levied therein and returned to the county treasurer as delinquent, shall, except as herein otherwise provided, be considered and treated as a township; and all provision of law for the sale of lands for the payment of taxes levied for State, county, and township purposes, and returned delinquent, shall apply to the return and sale of property for the non-payment of delinquent taxes levied in the city, except as herein otherwise provided.

CHAPTER XXVIII.

EDUCATION.

City to be a school district. SECTION 1. The city shall be a district under the name of the school district of the city of Manistee, which district shall be a body corporate for school purposes, and as to all matters pertaining to public schools, it shall be subject to and gov-

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erned by the laws of the State of Michigan relative to the system of graded schools: Provided, That if a number of persons, qualified by the general laws of the State to vote at any election of school officers, equal to five per centum of the whole number of votes cast at the next preceding election of school officers, shall for that purpose petition the board of trustees of said school district not less than ten days next preceding any election of school trustees, said school district shall, for the purpose of said election, be divided into three election districts, as follows, viz: That territory contained in and known as the first and fifth wards shall be designated as school election district number one; that territory contained in and known as second and third wards shall be designated as school election district number two; and that territory contained in and known as the fourth, sixth and seventh wards shall be designated as school election district number three. The place of holding the election in each of the school election districts shall be designated by the school board, and such selection shall be included in the notices of such school elections. The election shall be conducted at each voting place by a board of inspectors consisting of three electors, to be appointed by the district board, one of whom shall be a member of the board of school trustees, and two of whom shall be residents of said election districts: Provided, That on failure of said board to so appoint, said inspectors shall be chosen by the electors present at the opening of the polls.

Sec. 2. The ballot shall be a white paper ticket of uniform size, without any distinguishing marks, with the names of the persons for whom the elector intends to vote, written or printed thereon; and shall designate the office to which each person so named is intended by him to be elected; and each ballot shall be so folded as to conceal the contents, and shall be delivered to one of the inspectors, who shall thereupon deposit all such ballots in a suitable box to be provided and kept for that purpose.

Sec. 3. The notices of all school meetings shall state the time of day when the polls shall open and close, and immediately after the polls shall have closed, each board of school election inspectors shall proceed to canvass and announce the vote in their school election district, which announcement shall be in writing and filed with the director of the school board within twenty-four hours. Within three days thereafter, the school district board shall ascertain the result of the election, and the trustee or trustees receiving the highest number of votes shall then and there be declared to be elected.

Notice of
school meet-
ings.

Canvass of
votes.

CHAPTER XXIX.

FIRE DEPARTMENT.

(See also Chapter 32.)

By act 461 of the local acts of 1901, (being chapters 31 and 32 of this charter) those parts of chapters 12 and 29 inconsistent with said chapter 32, are repealed.

SECTION 1. The council shall have power to enact such ordinance, and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to

Establishment
and main-
tenance of.

CHAPTER XXIX.

protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department, to organize and maintain fire companies, to employ and appoint firemen, to make and establish rules and regulations for the government of the department, the employés, firemen, and officers thereof, and for the care and management of the engines, apparatus, property, and buildings pertaining to the department, and prescribing the powers and duties of such employés, firemen, and officers.

Fire engines, reservoirs, etc. SEC. 2. The council may purchase and provide suitable fire engines, and such other apparatus, instruments, and means for the use of the department as may be deemed necessary for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds, and other suitable places in the city; and make all necessary provisions for a convenient supply of water for the use of the department.

Engine-house. SEC. 3. The council may also provide, or erect, all necessary and suitable buildings for keeping the engines, carriages, teams, and fire apparatus of the department.

Engineer. SEC. 4. The engineer of the fire department shall be the chief of the department, and subject to the direction of the mayor, shall have the supervision and direction of the department, and the care and management of the fire engines, apparatus, and property, subject to such rules and regulations as the council may prescribe. And the council may appoint such assistant engineers and other officers of the department as may be necessary.

Authority to command assistance. SEC. 5. The fire engineer, mayor, chief of police, and any alderman or officer of the fire department may command any person present at a fire to aid in the extinguishment thereof, and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful requirement or other lawful order and direction of any such officer, the officer giving the order may arrest or direct any policeman or citizen to arrest such person and confine him temporarily until the fire shall be extinguished; and in addition thereto, he shall be punished in such manner as may be prescribed by the ordinance [ordinances] of the city.

Fire warden. SEC. 6. The council may provide, by ordinance, for the appointment of, and may appoint, such number of fire wardens as may be deemed necessary; and for the examination by them, from time to time, of the stoves, furnaces, and heating apparatus and devices in all the dwellings, buildings, and structures within the city, and in all places where combustible or explosive substances are kept; and to cause all such as are unsafe with respect to fire to be put in a safe condition.

Fire limits. SEC. 7. The council may prescribe, by ordinance, from time to time, limits or districts within the city, within which wooden buildings and structures shall not be erected, placed, or enlarged; and to direct the manner of constructing buildings within such districts, with respect to protection against fire, and the material of which the outer walls and roofs shall be constructed.

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SEC. 8. The council may also prohibit, within such places or districts as they shall deem expedient, the location of shops; the prosecution of any trade or business; the keeping of lumber yards; and the storing of lumber, wood, or other easily inflammable material, in open places, when, in the opinion of the council the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils, and other combustible and explosive substances, and the use of lights in buildings; and, generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.

SEC. 9. Every building or structure which may be erected, placed, enlarged, or kept, in violation of any ordinance or regulation made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.

SEC. 10. The officers, firemen, and employés of the department shall receive such compensation as the council may prescribe; and during their term of service shall be exempt from serving on juries. The council may provide suitable compensation for any injury which any fireman may receive to his person or property in consequence of the performance of his duty at any fire.

SEC. 11. The engineer in charge of the department at any fire, with the concurrence of the mayor or any two aldermen, may cause any building to be pulled down or destroyed, when deemed necessary, in order to arrest the progress of the fire, and no action shall be maintained against any person or against the city therefor; but if any person having an interest in the building shall apply to the council within three months after the fire, for damages or compensation for such building, the council may, in their discretion, pay him such compensation as may be just. They may ascertain such damage by agreement with the owner, or by the appraisal of a jury, to be selected in the same manner as in case of juries to appraise damages for taking of private property for public use; and the council may cause the amount of any damages determined upon to be defrayed by a special assessment upon the property which in their opinion was protected or benefited by the destruction of such building; but no damages shall be paid for the amount of any loss which would probably have occurred to such if it had not been pulled down or destroyed.

SEC. 12. The council of said city may by ordinance prescribe such regulations to be observed by owners, masters, and employés of steamboats and watercraft, upon any navigable waters adjacent thereto, as may be necessary for the prevention of fires in the harbor, and to prevent the communication of fire from such boats and craft; and may prescribe in such ordinance the manner of collecting any penalties imposed thereby.

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MISCELLANEOUS.

Service of process.

SECTION 1. All process against the city shall run against the city in the corporate name thereof, and may be served by leaving a certified copy with the mayor, city clerk, or city attorney at least ten days before the day of appearance mentioned therein.

Laying out and plattting additions to city.

SEC. 2. No lands or premises shall hereafter be laid out, divided, and platted into lots, streets, and alleys within the city, except by permission and approval of the council by resolution passed for that purpose, nor until the proprietor shall file with the city clerk a correct survey, plan and map of such grounds and the subdivisions thereof, platted and subdivided as approved by the council and made to their satisfaction, showing also the relative position and location of such lots, streets, and alleys with respect to the adjacent lots and streets of the city, nor shall any such plat and dedication of the streets and public grounds thereon be recorded in any office of register of deeds until a certificate has been indorsed thereon by the city clerk under the seal of the city, showing that such plat and declaration has been approved by the council, nor shall the city by reason of such approval be responsible for the improvement, care, and repairs of such streets and alleys, excepting such as the council shall accept and confirm by ordinances as provided by section two of chapter twenty-two of this act.

Former corporation to remain in power.

SEC. 3. After the incorporation of the city under and subject to the provisions of this act as aforesaid, the government and affairs of the former corporation shall continue and proceed as before, and all its members shall remain in office and exercise their powers and duties as such officers, except as herein otherwise provided, until the city officers and members of the council first elected under the new corporation, or a majority of them, shall enter upon the duties of their offices.

First election.

SEC. 4. The first election of officers for the new corporation shall be held on the first Monday in April next; and notice thereof, and of the officers to be elected thereat, shall be given, and the election held and conducted, the votes canvassed, the result determined, and notice given to persons elected in the same manner and within the same time as in annual elections of the former city corporation, and by the same persons and officers whose duty it was to perform the like services under the old corporation.

Justices and aldermen to continue in office for the term elected.
Act to remain in force.

SEC. 5. All justices of the peace and aldermen elected during the former incorporation shall continue in office for the term for which they were elected.

SEC. 6. An act entitled "An act to incorporate the city of Manistee," approved March fifteenth, eighteen hundred and sixty-nine, with the amendments thereto, shall remain in force, so far as not inconsistent with this act, until the organization of the city council on the first Monday in May after the election provided for in section four of this chapter, and for all

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other purposes, and after the said first Monday of May the ~~Repealed.~~
same shall be and is hereby repealed.

Sec. 7. The by-laws and ordinances of said city heretofore in force, and not inconsistent with this act, shall remain in force after the passage of this act until altered, amended, or repealed by the council.

CHAPTER XXXI.

BOARD OF ASSESSORS.

(Act 461 of Local Acts of 1901.)

SECTION 1. There shall be three assessors within the corporate limits of the city of Manistee, who shall be known as "the board of assessors of the city of Manistee," each of whom shall hold his office for the term of three years and until his successor is appointed by the mayor and duly qualified, and whose powers and duties shall be as hereinafter provided. Such assessors shall devote such time as may be necessary to discharge the duties of their office, and shall each receive as compensation therefor such sum or sums as the city council may from time to time by ordinance direct, payable monthly out of the same funds and in like manner as other city officers are paid. The member of the board of assessors whose term of office shall soonest expire shall be the president thereof. Such board of assessors shall have an office furnished by the city of Manistee.

Sec. 2. On the third Tuesday of January, nineteen hundred and two, or as soon thereafter as practicable it shall be the duty of the mayor to nominate one assessor for the term of one year, one assessor for the term of two years and one assessor for the term of three years, who shall be confirmed by a three-fourths vote of all the aldermen elect, and annually thereafter, on the third Tuesday of April, or as soon thereafter as practicable the mayor shall nominate one assessor for the term of three years to take the place of the assessor whose term then expires, which nomination shall be confirmed as aforesaid.

Sec. 3. Said board of assessors shall before the first Monday in May, in the year nineteen hundred and two, and every fiscal year thereafter, assess, at its true cash value, all the real and personal property subject to taxation by the laws of this State, within the corporate limits of each ward of said city, and shall, within the same period, make and complete the assessment roll for each ward in books to be provided for that purpose by the city council of said city; and perform all duties relating to the assessment of property for taxation heretofore performed by the supervisors in the several wards in said city of Manistee under chapter twenty-seven of said act.

Sec. 4. The board of assessors shall have power to demand of every person owning or having charge as agent or otherwise, of any taxable property, in any ward of said city, a list of all such property, with such description as will enable it to assess the same, which demand may be printed or in writing, or partly printed and partly written, to be delivered to such person personally or by leaving the same at his place of busi-

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ness or abode with some suitable person of proper age and discretion; and every cashier or other officer of any bank, trust company or corporation to furnish on demand of said board, a complete list of all the stockholders, owning shares of stock in any such corporation, or company, and the amount thereof owned by each person, and the residence of each stockholder when known. If such list is not furnished by such person, cashier or other officer, or if any property in such ward is omitted from such list, then said board of assessors shall have the power and it shall be its duty to place upon such assessment rolls such property to be assessed as said board of assessors, in using its best knowledge and information, shall deem liable to assessment.

**Notice that
roll is com-
pleted.**

SEC. 5. After said assessment rolls shall have been completed by said board, it shall be its duty to cause notice to the taxpayers to be published in a newspaper published and circulated in said city, for ten days prior to the first Monday in May in each year, that the assessment rolls will be completed on said first Monday in May, and that upon said day, said board of assessors shall commence to sit to hear objections to

What to state.

assessments upon said rolls. Said notice shall state where said board will sit to hear such objections, and that any person considering himself aggrieved by reason of any assessment, may complain thereof, by a protest in writing filed with said board of assessors within six days after the said first Monday in May, and that no complaint will be heard if no such protest had been filed with said board within said last mentioned date. Every such protest shall be in writing and shall state specifically the grounds of the protest and the matters complained of, and no other matters shall be considered by said board.

Protest.

The date of the receipt and filing of such protest shall be endorsed thereon and signed by one of said board in his official capacity, and it shall thereupon become a part of the official records of its office. The said board shall review the assessments complained of, and alter or correct the same as to

**Board to
review
assessments.**

the persons charged thereby, the property described therein and the estimated value thereof, and in deciding such questions, the concurrence of the majority of the board shall govern. After having completed the review and corrected the assessment rolls, said board shall sign the same, and add thereto its certificate that the same have been duly completed. On or before the second Monday in May in each year said board shall deliver said assessment rolls so completed, signed and certified to by it, to the board of review of said city, which board shall be constituted as provided for in section five of chapter twenty-seven of said act.

**Aggrieved
persons
may appeal.**

SEC. 6. After receiving said assessment rolls from the board of assessors said board of review, shall, at its regular session proceed to consider the same, and any person conceiving himself aggrieved by the assessment of his property, and the decision of said board of assessors thereon, may appeal to said board of review. Every such appeal shall be identical in matter with the protest filed in the board of assessors' office and shall be in writing and shall state specifically the grounds of appeal and the matters complained of, and no other matter

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shall be considered by the said board of review. Such appeal shall be filed in the office of the city clerk within three days after the delivery of said assessment rolls to the board of review as provided for in the preceding section, and the city clerk shall endorse thereon the date of the receipt and the filing of the same, and thereupon such appeal shall become a part of the official records of his office. The board of review shall have power to administer oaths and examine witnesses in the same manner as is now or hereafter may be conferred upon township boards of review by the general tax laws of this State: Provided, That no appeal shall be entertained by said board of review, unless the same shall have been first brought to the attention and consideration of the board of assessors, as aforesaid. Whenever said board of review shall sit the said board of assessors shall be notified and it shall be the duty of each assessor to attend such session or sessions, and each of said members of said board of assessors shall answer such questions as may be put to him by the board of review, and each assessor may make such suggestions as he may desire, relating to the matters under advisement by such board of review.

Sec. 7. The board of review shall hear and determine all appeals in a summary manner and correct any clerical error which it may discover in the assessment rolls, and may place thereon the names of any person or persons and descriptions of any property not already assessed, and may assess the same.

Sec. 8. The board of review may continue the consideration of said assessment rolls and the hearing of such appeals from session to session not exceeding six days from the time when the same are first taken under consideration as above provided and a vote of two-thirds of the members of such board of review shall be necessary to change any assessment made by said board of assessors on which an appeal has been made. On or before the expiration of said six days said assessment rolls shall be fully and finally confirmed by said board of review, and shall be and remain as the basis of all taxes to be levied and collected in the said city of Manistee, according to the property valuation until another assessment shall be made and confirmed as above provided for: Provided, That in finally passing upon said assessment rolls a majority vote of the members of said board of review shall be sufficient to confirm the same; and in case of a tie vote such rolls shall stand confirmed.

Sec. 9. The city clerk of said city of Manistee shall be clerk of said board of review, and shall keep the records of its sessions and its proceedings and such other records as are necessary to be kept, and it shall be his duty to attach his certificate under the seal of the city of Manistee to said assessment rolls, after the same shall have been finally confirmed by said board of review, certifying that such assessment rolls have been acted upon and confirmed by said board of review, and thereupon it shall be his duty to keep and retain the same in his office until the taxes are spread thereon as required by said chapter twenty-seven of said act.

Sec. 10. It shall also be the duty of the said board of assessors to perform such other duties as may be required by law.

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sors to perform all the duties of the board of assessors required by chapter twenty-four of said act, entitled "Cost of improvements, special assessments."

To be ex-officio members, etc. SEC. 11. The members of said board of assessors hereby created shall be ex officio members of the board of supervisors of the county of Manistee.

Where records, etc., to be kept. SEC. 12. All books, papers, assessment rolls and records formerly belonging to the offices of the respective supervisors of the several wards of the city shall be placed in the office of the said board of assessors; and all future assessment rolls shall likewise be placed therein, and all such books, papers, records and assessment rolls shall remain therein as a part of the official records thereof.

CHAPTER XXXII.

BOARD OF POLICE AND FIRE COMMISSIONERS.

(Act 461 of Local Acts of 1901.)

Who to constitute board of police, etc.

SECTION 1. All the powers and duties connected with and incident to the government and discipline of the police and fire departments of the city of Manistee, shall be, as herein-after provided, vested in and exercised by a board of three commissioners, to be known as "The Board of Police and Fire Commissioners of the City of Manistee," a majority of whom shall constitute a quorum for the transaction of business. Such board shall be appointed as hereinafter provided.

Term of office, appointment, etc.

SEC. 2. The full term of each member of said board, hereinafter to be appointed, shall be for the term of three years except the first appointment under this act shall be as herein-after provided and until his successor is appointed and qualified. Such appointment shall be made by the mayor on the third Tuesday in February, nineteen hundred two, at which time it shall be the duty of the mayor to nominate one commissioner for the term of one year, one commissioner for the term of two years and one commissioner for the term of three years, who shall be confirmed by a three-fourths vote of all the aldermen elect; which said commissioner's term of office shall commence to run from the first day of May, nineteen hundred two, and annually thereafter, on the third Tuesday of April, or as soon thereafter as may be, the mayor shall nominate one commissioner for the term of three years to take the place of the commissioner whose term of office then expires, which nomination shall be confirmed as aforesaid.

Compensation, eligibility, etc.

SEC. 3. Said commissioners shall serve without any compensation whatsoever. No person shall be eligible to said board unless he shall then be an elector and resident of said city, nor shall any person be eligible who holds any elective or political office, or any office by virtue of the appointment of the mayor or city council of said city, and any of said commissioners shall be considered as vacating his office in the event of his accepting or holding any such office.

Oath.

SEC. 4. Any person appointed and accepting membership on said board, shall take the oath of office prescribed by the charter of said city for appointive officers, and file the same in the office of the city clerk, which filing shall constitute an accept-

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ance of the office, and said city clerk shall report such acceptance of office to the city council at its next regular meeting.

SEC. 5. The board shall annually elect one of its members ^{Officers of board.} president thereof, to act until his successor is elected, and shall fill any vacancy in such office as president. It shall also annually appoint an elector of the city to be secretary of the board, and shall fix his compensation. Such board of commissioners shall have an office furnished by the city of Manistee, for its use, and shall hold therein such regular and special meetings as it may, from time to time, provide, and shall cause full and accurate records of the same and of all business transacted by the board to be kept by the secretary. The city of Manistee shall furnish such office with all necessary record books, stationery, etc., for the use of said board. The secretary shall keep a separate account of all expenditures ordered by the board, an account of all expenditures ordered by the board on account of the police and fire departments, and of all expenses incurred by the board in managing and maintaining said department. The board shall report to the city council monthly, the condition and needs of the police and fire departments, and the expense of conducting the same for the ensuing month, together with the number of men employed in each of said departments. Said board shall also certify, from time to time, to the city clerk all such accounts, claims and demands against the city for or on account of said police and fire departments, as shall have been approved by the board, and shall report the same to the city council for payment, in all cases where the expenditure involved is included within the detailed annual estimate, in all other cases he shall report the item to the council for its action. Said board may also report to the city council any claim or demand, the validity of which may be in doubt.

SEC. 6. Said board shall have full power to appoint a city marshal, who shall be chief of police; policemen, special policemen, additional policemen, and watchmen, subject to the limitations and restrictions as to qualifications as are provided for in this act, and to fix the compensation of the same, not exceeding an amount which the city council may by ordinance prescribe. It shall have power to appoint as many policemen and watchmen as it may deem necessary, but not exceeding one for every two thousand inhabitants of the city.

SEC. 7. It shall also appoint as many special policemen in times of special emergency, or apprehended danger from riots, or other cause of alarm, as it may deem expedient, or as the city council or mayor may request; the special policemen so appointed shall perform duty only at the places designated by the board, and shall continue in office at the pleasure of the board, or the emergency may require, or the council or mayor may direct. All persons appointed by the board under this section and the preceding section shall be citizens of the United States, and shall have been continuous residents in the city for at least one year next preceding such appointment.

SEC. 8. The city marshal and policemen of said city, in addition to the powers, duties and authority possessed by them at common law and the laws of this State in matters of a

^{Special policemen.}

^{Qualifications for appointment.}

^{Additional powers of marshal, etc.}

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criminal nature, shall have power to arrest without process, all persons who shall, in the presence of the arresting officer, be engaged in the violation of any ordinance or regulation of the city council, or the penal laws of this State, and such persons may be detained in custody until a complaint can be made and process issued for their arrest and trial; and it shall be the duty of such officer to make such complaint and procure such process in the proper court, as speedily as possible after such arrest.

When city
marshal, etc.,
dismissed.

SEC. 9. Said board of commissioners may, whenever it shall seem to them best, dismiss from the department and from service, the city marshal or any member of the police force, or any watchman with or without charges or trial, and no such dismissed person shall be entitled to any compensation after such dismissal, and they may change the amount of compensation of any member of the department at any time, and may suspend any member of the department with loss of pay for such time as they may fix.

Rules and
regulations
of board.

SEC. 10. Said board shall have power, and it shall be its duty to make such rules and regulations for the government and discipline of said police department as it may deem best calculated to secure thoroughness and efficiency. It shall prescribe suitable uniforms and badges for the several members of the department. It shall purchase all supplies and materials needed for the use of the department. It may adopt such system of reports from the members of the force to the city marshal and from the city marshal to the board, as it shall deem desirable, and may, in its discretion, require a bond to the city from said city marshal or any member of the department as security for the proper performance of his duties. It shall prescribe the duties of the city marshal and of all regular and special policemen and shall provide for the preservation of the public peace, for the prevention of crime, for the arrest of all offenders against the peace and good order of the city, and of all persons violating the ordinances of said city.

To prescribe
duties, etc.

It shall provide for the protection of the rights of all persons and property and for the preservation and order at fires, and at all railroad depots and steamboat landings, and shall cause the enforcement of ordinances of the city and laws of the State in regard to public peace, public health and the enforcement of the provisions of the ordinances of said city relative to the restraining and regulating the running at large of horses, cattle, swine and other animals, geese and poultry, and for the impounding of the same under and by virtue of the provisions of the ordinances of said city. And it shall also cause the enforcement of all other ordinances or regulations proper to be enforced by the police of said city. And it shall be the duty of said board at all times, whenever consistent with the regulations of said board and the requirements of this act, to furnish all information desired, and to comply with all requests made by the city council of said city or by the mayor thereof.

To provide
protection to
rights of
persons, etc.

To enforce
ordinances,
etc.

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OF THE FIRE DEPARTMENT.

SEC. 11. The board of police and fire commissioners shall have the keeping and the custody of all engine houses, fire engines and apparatus, horses, hose, implements, tools, bells, bell towers, fire alarm telegraph, and of all property of whatever nature, and the complete care and control of the fire department shall be vested in said board, and it shall be its duty to maintain said department and keep the same in good order; and to prescribe all rules and regulations for the government of the same, and may prescribe reasonable and legal fines and penalties for the breach of any such rules or regulations.

Duties and powers of board.

SEC. 12. Said board shall appoint one fire chief, as many assistant chiefs as it may deem necessary, and a proper number of firemen, hook and ladder men, and other employes as it may deem best, all to have the privileges and exemptions of firemen, and to hold their appointments during the pleasure of said board. And said board shall, from time to time, as it may deem proper, prescribe and publish in convenient form for use, a system of rules and regulations for the government of the fire department. All persons appointed by said board under the provisions of this section, shall be citizens of the United States and continuous residents of the city of Manistee for at least one year next preceding such appointment.

To appoint chief, etc.

To provide system of rules, etc.

SEC. 13. Said board shall fix the salary of the fire chief and all other persons connected with the fire department of said city according to the city ordinance relative thereto, and may require the fire chief to execute a bond to said city, conditioned as required in this act, and in such sum as it may deem best to secure the faithful performance of his duties. Said board shall have power to purchase all such fire engines, with their hose and apparatus, horses, hose carts, ladders, trucks, fire hooks, fire buckets, and other tools, implements and conveniences for the use and extinguishment of fires and to prevent injuries by fires, as may from time to time be necessary, and repair or replace the same, and it shall have power to make all needed repairs to any of the engine houses now built in said city, but it shall not have power to purchase real estate or erect engine houses.

To purchase fire engines, etc.

SEC. 14. Said board shall have power to locate sites for engine houses; to organize said city into as many fire districts as it may be necessary; to control the cisterns and hydrants in use by said fire department; to direct the manner in which the bells of the city shall be tolled or rung in case of fire or alarms of fire; and to establish and maintain an efficient system of fire alarm telegraph; and such other telegraphic or telephonic apparatus as may be necessary to secure the highest efficiency of the department.

To locate sites, etc.

SEC. 15. The fire chief under the direction of the board, shall have the custody and general superintendence of the fire engines, engine houses, hooks, ladders, hose, horses, public cisterns, hydrants and other property and conveniences for the extinguishment and prevention of fires; and it shall be

Fire chief.

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his duty to see that the same are kept in order and to see that the rules, regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed, and to make detailed and particular reports of the state of the department, the conduct of the members thereof, and such other matters as may be required by the rules and regulations, to the said board of police and fire commissioners.

POLICE AND FIRE COMMISSIONERS.

Board to prescribe duties of fire chief, etc.

May provide for removal of certain persons from fires.

Privilege of chief relative to burning buildings, etc.

Interested persons to apply to council.

Application for damages.

SEC. 16. Said board shall prescribe the duties of the fire chief and other members of the fire department at fires, and may vest in them such powers as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires; but in no case shall any member of said board or any officer of the city control or direct the fire chief or assistants during any fire. It may provide for the removal and keeping away from fires of all idle, disorderly or suspicious persons, and confer powers for that purpose on the chief, or other officers of the city. It shall require reports from the fire chief or other officer in charge of the department, of all fires, fire alarms, losses and insurance on all property destroyed, and keep proper record thereof, and shall report the same monthly to the city council of said city. And it shall be competent for said board at any time, if in their best judgment proper, to send any steam or fire engine with hose and apparatus to the relief of any community in the vicinity of said city.

SEC. 17. Whenever any building in the city shall be on fire, it shall be lawful for the fire chief in charge at such fire, with the consent of one member or more of the board of police and fire commissioners, to order such building or any part thereof, or any other building, or any part thereof, not on fire, but which may be deemed hazardous and likely to communicate fire to other buildings, to be pulled down and destroyed. In such case no action shall be maintained against any person, or the city therefor. Any person pecuniarily interested in any such building destroyed, in whole or in part, may within three months thereafter apply to the city council to assess and pay the damages which he has thereby sustained.

SEC. 18. Such application shall be in writing, signed and sworn to by such person, and shall contain a statement of the amount claimed. Such application shall be filed in the office of the city clerk, who shall endorse on the back thereof, the date of the receipt and filing of the same. After the expiration of three months, the city council shall either pay the person such sum as the city council and the person shall have agreed upon for such damages; or if no such agreement shall have been effected, the city council shall proceed to ascertain the amount of such damages, and shall provide for the appraisement, assessment, collection and payment of the same, as is provided for in the charter of the city of Manistee for ascertainment, assessment, collection and payment of damages

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sustained by the taking of real estate for the purposes of public improvement.

Sec. 19. The jury appointed to appraise and assess the damages incurred by the person whose building is destroyed in whole or in part, as provided for in the two preceding sections, shall take into account the probability of the same having been destroyed or injured by fire, if it had not been so pulled down or destroyed, and may report that no damages should equitably be allowed to such person. Whenever a report shall be made and finally confirmed in the proceedings for appraising and assessing the damages, a compliance with the terms thereof by the city council, shall be deemed a full satisfaction of all damages to such person.

Sec. 20. Said board shall see that all ordinances and regulations of the city council, and all provisions of this act relating to the fire department and to the prevention and extinguishment of fires, and all the provisions of the general laws of the State relating thereto are faithfully enforced, and it may, at all times, call upon and direct the police force to enforce the same.

Sec. 21. It shall be the duty of said board to prepare and submit to the city council for its ratification or amendment, on or before the third Tuesday in April of each year, estimates of the whole expense of maintaining the police and fire departments of the city for the ensuing year. Such estimates shall be separate for the two departments, and shall specify in detail the objects of the expenditures, the sum desired for each, and any special reasons the board may have for desiring the same. The amount of money for each department which the city council shall determine by resolution to be necessary shall be certified by the city clerk to the city council, with the other amounts determined to be raised by tax for city, highway, sewer and other purposes in accordance with the provisions of the city charter.

Sec. 22. Said board shall not incur any indebtedness, nor enter into any contract requiring the payment of money unless such indebtedness or such contract is provided for in the said detailed annual estimate provided for in the preceding section, unless specially authorized so to do by a majority of all the aldermen elect of the city council.

Sec. 23. Any and all parts of said act number forty-eight of the session laws of eighteen hundred eighty-two in any manner contravening or inconsistent with this chapter are hereby repealed.

CHAPTER XXXIII.

THE BOARD OF WATER COMMISSIONERS.

(Act 422 of Local Acts of 1903.)

SECTION 1. Albert Baumann, George R. Ray, John Seymour, William J. Barnhart and Thomas J. Elton, who now constitute the present board of water commissioners, having been by ordinance heretofore duly appointed to such office by the mayor and common council of said city, are hereby named and constituted as the board of water commissioners of the city of

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Term of office. Manistee, and as such shall be deemed officers of the city. Each of said commissioners shall hold his office until the third Tuesday in April of the following years respectively, and until his successor is appointed and qualified, such expiration being the same as heretofore fixed by the common council of Manistee, to wit: Albert Baumann, nineteen hundred three; George R. Ray, nineteen hundred four; John Seymour, nineteen hundred five; William J. Barnhart, nineteen hundred six; Thomas J. Elton, nineteen hundred seven.

Time of appointment. SEC. 2. On the third Tuesday in April, nineteen hundred three, and annually thereafter, the council shall, on the nomination of the mayor, elect and appoint, by a majority vote of all the aldermen elected, a citizen of said city, being a qualified voter and freeholder, as a commissioner, who shall hold his office for five years, or until his successor shall be appointed

Qualification. and qualified: Provided, That this section shall not be construed as to disqualify any member of said board from re-appointment. And in case of the death or resignation, or removal from the city, or removal from office, of any of the said commissioners, the mayor and council shall, as soon thereafter as possible, and in the manner herein provided, fill such vacancy for the remainder of the term.

Removal from office. SEC. 3. Any member or members of said board may be removed from office for cause, in the same manner as elective officers of said city.

Organization of board. SEC. 4. The said commissioners shall, at their first meeting in May, nineteen hundred three, and annually thereafter, choose from their own number a president, a secretary, and such other officers as they shall deem necessary. In case of a vacancy in any office of the board, said commissioners shall have power to fill the same as in the first instance.

Bonds of commissioners. SEC. 5. Each commissioner shall file with the city clerk a bond in the penal sum of two thousand dollars, conditioned for the faithful discharge of his duties, which bond shall be approved by the mayor and chairman of the finance committee of the council, before such commissioner enters upon the duties of his office. And the superintendent and bookkeeper shall each file with the city clerk a bond in such penal sum as the board may determine, which bond shall be approved by the president and secretary of the board, before such employees enter upon the discharge of their respective duties.

Meetings of board. SEC. 6. The board shall hold, at such time as they may by resolution prescribe, at least one regular stated meeting in each month for the transaction of business. Special meetings may be called by the president or any two members of the board, at any time, by giving notice to all the members thereof.

Quorum. Three members of the board shall constitute a quorum for the transaction of any business. The board may provide by resolution for the appointment of standing committees of its members, who shall perform such duties, investigate, have charge of, and report upon such matters as may be referred to them. Such committees shall be appointed by the president. The board shall keep an accurate record of all proceedings, and cause its proceedings to be promptly published in at least one newspaper published in the city.

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SEC. 7. The president and secretary of the board shall each receive one hundred dollars per annum, and each of the other members of the board shall receive fifty dollars per annum, and no other or further sum shall be paid to any member of said board for his services. The said salaries shall be deemed a part of the operating expenses of said water-works, and shall be paid from the income thereof.

SEC. 8. Said board shall have the entire management, control and operation of the water-works of the city, and it shall be the duty of the board to control, operate and manage said water-works, and, except as hereinafter provided, to make and superintend all necessary repairs, extensions, enlargements or improvements thereof; to employ all necessary labor to operate said water-works; to audit and pay all expenses of operating the same, and of the repairs and improvements thereof; and to perform all such other services for the careful and economical operation of said water-works. Said board shall also have such other and further powers not herein granted, as are given to water boards by the general laws of this State, and as are not inconsistent with the powers and rights herein granted.

SEC. 9. The regular employees of said board in the operation of said water-works shall be one superintendent, one book-keeper, who shall be collector and clerk of the board, two engineers, two firemen and one tapper. But the board may employ such additional labor as may become necessary in works of construction, conservation or repair, or in case of emergency. The number of regular employees and their salaries shall not be increased at any time without the authority of the council.

SEC. 10. The board is hereby authorized and directed to prepare and adopt, as soon as practicable, a system of water rates to be charged to the city and the inhabitants thereof, for water supplied by the water-works. Such rates shall be prepared, with the purpose of securing sufficient revenue from said works to pay all the expenses of operation and repairs, and the water-works bonds and interest thereon, as the same become due; but the rate charged the city for rent of hydrants, shall not exceed one hundred dollars each per annum. The board shall also prepare and adopt rules and regulations for the operation of said water-works, and shall regulate the manner of making connections with water mains, and the use of water. The said rates, rules and regulations may, from time to time, be revised and amended, and shall apply equally to all the inhabitants of the city. When such rates, rules and regulations have been prepared and adopted by the board, it shall cause the same to be printed in convenient form for distribution.

SEC. 11. All moneys collected or received by the board shall be paid over to the city treasurer upon the day of collection, and shall be kept by the city treasurer, separate and apart from all other city moneys, in a fund to be known as the water-works fund, and no moneys shall be transferred from said fund to any other city fund, except for the payment of water-works bonds and the interest thereon.

SEC. 12. Moneys shall be drawn from said fund for the payment of all expenses of operating, repairing, conserving

Compensation
of commissioners.

To control
water-works.

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powers.

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of board.

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and extending said water-works, only upon the order of the board, signed by the president and secretary thereof, and each order shall show the purpose for which it is drawn. The city treasurer shall not, without the consent of the council, pay any order of the board, if drawn in favor of any member of the board, except those drawn in payment of the salaries of the members of the board provided by section seven of this chapter. Neither the president nor the secretary shall sign or issue any order upon the water-works fund, unless authorized by a vote of the majority of the members of the board.

**Deficiency,
how provided
for.**

SEC. 13. If, at any time, there are not sufficient moneys in the water-works fund to pay any of the bonds heretofore issued, or that may hereafter be issued by the city, for water-works purposes, when the same shall become due, the board shall, on or before the first day of September in the year in which such deficiency occurs, certify to the council the amount of such deficiency, and it shall be the duty of the council to raise said amount by a special tax in the same manner as general taxes of the city; said special tax to be designated a water tax; and said amount shall be credited to the water-works fund by the city treasurer: Provided. That in lieu of raising said amount by a special tax, the council may extend the time of payment of said bonds, as provided for other bonds of the city, in section twenty-five of chapter twenty-six of this act.

**Council may
extend bonds.**

**Limit of
expenditures.**

SEC. 14. When, in the opinion of the board, it becomes necessary to increase the capacity of the water-works, or to construct any new works, or to increase the service of said water-works, involving a total expenditure of more than five thousand dollars in any one year, the board shall, before incurring any expense or liability therefor, prepare plans and specifications of the proposed improvement, and estimates of the cost thereof, and report the same to the council for its approval of, and consent to the proposed expenditure.

Annual report.

SEC. 15. The said board shall, on or before March fifteenth in each year, make and file with the city clerk a full and complete report for the year ending on the last day of February, showing the income received from said water-works and the sources thereof; the expenses of operating the water-works; the amount expended for extensions, improvements and repairs, and in the payment of bonds and interest; the amount of money on hand, and the purpose for which held. The finance committee of the council, or other committee appointed by the council for that purpose, shall, upon the filing of said report, audit the books of the board and compare the report with said books, and report their findings to the council, at the first meeting thereof, after said date; and such report shall be published as part of the proceedings at said meeting of the council.

**Books to be
audited.**

SEC. 16. In case of any special work being required from said board by the council, such as the lowering of water mains to conform to a change of street grade, or moving any fire hydrant from one place to another, the cost of such special work shall be paid to the board by the council. Fire hydrants shall be placed wherever ordered by the council; and whenever new fire hydrants are ordered to be installed, requiring the extension of one or more water mains, the cost of such ex-

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tension and hydrants shall, in the first instance, be paid to the board by the council, but as soon as sufficient revenue is derived from private consumers and hydrant rentals from such extensions, the cost of the same shall be repaid to the council by the board.

Sec. 17. The council shall have authority to enact such ^{Ordinances for protection of water works.} ordinances as they may deem necessary, for the protection of the water-works, and any and all parts thereof, and against the violation of such ordinances may impose therein such fines, penalties and forfeitures as are prescribed in chapter nine of this act.

CHAPTER XXXIV.

ELECTROLYSIS.

(Act 422 of Local Acts of 1908.)

SECTION 1. It shall be the duty of all persons, companies ^{Prevention.} and corporations owning, using, or operating any telegraph, telephone, electric light or street railroad system, or any business or occupation using electricity, to so construct, manage, maintain and operate their plant, works and all connections thereof, as not to injure any water pipe, or any other structure or property of the city, or any other person, company or individual, by means of such electricity causing electrolysis.

Sec. 2. Said city of Manistee, or any other person, company or corporation, whose property has been injured by any such electrical current, or electrolysis, shall have a right of action against the person, company or corporation so causing or permitting such injury, for all damage, costs and expenses caused thereby.

Sec. 3. For the enforcement of the provisions of this chapter of said act, the city council of the city of Manistee shall have the power, and it is hereby authorized to pass such ordinances as it shall deem necessary therefor, and it may therein prescribe such penalties, fines and forfeitures for the violation or violations thereof as provided in chapter nine of the city charter of the city of Manistee.

This act is ordered to take immediate effect.

Approved March 15, 1882.

Note.—The words and sentences enclosed in brackets in the foregoing acts were in the bills as passed by the Legislature, but not in the enrolled copies as approved by the Governor.



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